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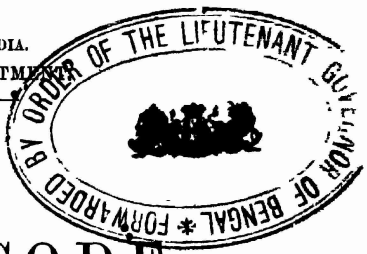


THE

BURMA CODE,

CONTAINING

THE BENGAL REGULATIONS,

THE LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL

AND

THE REGULATIONS UNDER 33 VICTORIA, CAP. 3,

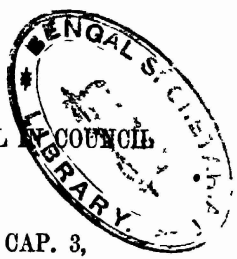
IN FORCE IN LOWER AND UPPER BURMA,

WITH

CHRONOLOGICAL TABLES

AND

AN APPENDIX.



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PREFACE.

SINCE the British Burma Code was published by this Department in 1877, Upper Burma has been annexed to British India,[a] and constitutes together with Lower Burma (formerly known as British Burma) the present Province of Burma.[b]

2. This volume has accordingly been divided into three parts, containing (Part I) all local enactments in force in Lower and Upper Burma, (Part II) all local enactments in force in Lower Burma only, and (Part III) all local enactments in force in Upper Burma only.[c] The volume also contains in an Appendix certain notifications under the Scheduled Districts Act, 1874, the Upper Burma Laws Act, 1886, and the Shan States Act, 1888.

3. To the Table of Contents prefixed to this Code a column has been added showing all repeals and amendments up to date affecting Burma, and the foot-notes to the enactments have been increased and amplified for convenience of reference.

4. The new matter in this volume is based on the official copies of the Acts of the Governor General in Council and of the Regulations made under 33 Vict., Cap. 3, preserved in this Department. The volume does not however purport to give an authoritative reprint of any of the matter which it contains.

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[a] See foot-note on p. 363, *infra*. [b] See Act XX of 1886, s. 2, *infra*, p. 363.

[c] It has been considered more convenient to reprint the Lower Burma Courts Act, 1889, in Part II, and the Upper Burma Laws Act, 1886, in Part III of this volume, though some provisions of these Acts extend beyond the limits of Lower and Upper Burma, respectively.

5. The following changes have been made in reprinting Regulations and Acts :—

(*a*) Sections which have been entirely repealed, have been omitted, but, for convenience of reference, the marginal notes or short abstracts of the matter so repealed have been printed, with a note citing the repealing enactment. Where only part of a section has been repealed, the repealed matter has been omitted and a foot-note has been inserted explaining the omission.

(*b*) Where an enactment directs that a section, a clause or words be inserted in a former Regulation or Act, such insertion has been made in reprinting the Regulation or Act, and a reference to the amending enactment has been given in a foot-note.

(*c*) The expressions "British Burma Gazette", and "British Burma" and "Burma" have been changed to "Burma Gazette", and "Lower Burma", respectively, under the provisions of section 4 of the Upper Burma Laws Act, 1886,[a] without reference in these cases to the authority for making the substitution.

(*d*) Where a Regulation or Act refers to another, and such reference is by a subsequent enactment directed to be read as if made to that enactment, the latter has, as a rule, been substituted in the text, and a foot-note has been inserted referring to the authority for making the substitution.

(*e*) The marginal notes to the enactments have, in some cases, been newly inserted, shortened or corrected.

(*f*) The number and year of enactments referred to in the text have been noted in the inner margin for convenience of reference, except where both appear in the text.

6. The foot-notes given in this volume are chiefly the references mentioned in clauses (*a*), (*b*) and (*d*) of paragraph 5 above,

[a] See *infra*, p. 364.

cross-references to Regulations and Acts, and references to Gazette Notifications bringing enactments into force or publishing rules under them. These notes do not purport to be authoritative or complete.

7. The Code contains only those Acts of the Governor General in Council which are in force in Burma and have not been inserted in the volumes of Unrepealed General Acts of the Governor General in Council published by this Department. The latter volumes contain all unrepealed Acts which extend or are extendible to the whole of British India or to the three Presidency-towns, and the Chronological Tables prefixed to them show all repealed Local and General Acts which have been from time to time in force in Burma.

8. Acts IX of 1885 and II of 1887 (*amending the Sea Customs Act, 1878, the Excise Act, 1881, &c.*), though partially local in their operation, have not been reprinted in this Code, as they appear in the volume of Unrepealed General Acts, 1885–1888, recently published; Act VII of 1883 (*repealing the British Burma Labour Law, 1876*), being spent, has also been omitted from this edition.

9. This Code has been corrected up to the 15th June, 1889.

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GOVERNMENT OF INDIA,
LEGISLATIVE DEPARTMENT;
Simla, the 16th June, 1889.

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THE BURMA CODE.

BENGAL SECRETARIAT LIBRARY.

PART I.

LOCAL ENACTMENTS IN FORCE IN LOWER AND UPPER BURMA.

A.— BENGAL REGULATIONS.

REGULATION XI OF 1812.[a]

Passed on the 18th July, 1812.

A Regulation to empower the Governor General in Council to order the removal of emigrants from foreign countries, and their descendants, from any place in the vicinity of the frontier of the State from which they may have emigrated; and, in certain cases, to place and detain any such persons in safe custody; and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts.

Preamble.

1. WHEREAS considerable bodies of persons, being Natives of Arakan and ordinarily denominated Muggs, have from time to time emigrated from that country and established themselves in that part of the district of Chittagong which lies contiguous to the Arakan frontier;

and whereas numbers of those persons, or of their descendants, abusing the protection which had been afforded to them in the British territories, have excited disturbances and even levied war in the country of Arakan against the Government of Ava, of which State Arakan is now a dependency, and have conducted themselves in a manner manifestly tending to disturb the relations

[a] This Regulation has been extended, under s. 5 of the Scheduled Districts Act, 1874, to Upper Burma (except the Shan States)—see Notification in Appendix, Pt. I, *infra*, p. 489; and, with the exception of s. 1 and subject to certain modifications, the Regulation has been declared to extend to the Hill District of Arakan—see Reg. IX of 1874, Sch., *infra*, p. 361.

of amity which subsist between the British Government and the Government of Ava;

and whereas it is, in consequence, necessary that the Governor General in Council should possess legal powers to remove the said bodies of emigrants and their descendants from the frontier of the territory of Arakan, or any other bodies of aliens or their descendants, from the vicinity of the country from which they may have emigrated, and likewise to detain in confinement any of those persons, or any other individuals being Natives of foreign countries, or their descendants, for offences of the above nature actually committed by them in the territories of the State from which they may have emigrated;

and whereas it is necessary to make provision for the trial of persons committing, or aiding in the commission of, the said offences, the following rules have been passed, to be in force from the period of their promulgation throughout the territories immediately dependent on the Presidency of Fort William:

Power to order removal of emigrants to parts of country deemed convenient.

2. WHENEVER the Governor General in Council, upon due investigation, shall be satisfied that the emigrants from [a-a]Arakan, or emigrants from any other State,[a-a] who may have sought an asylum in the British territories, or the descendants of any of the said emigrants, shall have abused the protection afforded to them, by attempts to excite disturbances in the State from which they or their ancestors may have emigrated, it shall be competent to the Governor General in Council to order the removal of those persons to such other part or parts of the country as may be judged most convenient for their future residence.

In like manner it shall be competent to the Governor General in Council to order such removal, whenever he may have grounds to be satisfied that the residence of any body of aliens, or their descendants, in the vicinity of the frontier of the country from which they or their ancestors may have emigrated, is likely to cause any serious misunderstanding between that State and the British Government.

Emigrants allowed to dispose of property.

3. Whenever any body of emigrants, or any individuals belonging to such body, shall be ordered to be removed from the part of the country in which they may have been established, they shall be allowed to dispose of any property which they may have acquired in such manner as they may judge proper:

Provided however that if they shall nevertheless retain the right to any real property at the period of their actual removal, it shall be competent to the Governor General in Council to order such property to be sold by public auction under the superintendence of the Collector of the district.

[a-a] In the Hill District of Arakan read for these words in s. 2 "any Foreign State"—see Reg. IX of 1874, Sch., *infra*, p. 361.

In that case the nett proceeds of the sale shall be duly paid to the person or persons to whom the said property belonged.

Power to order leaders or other emigrants to be apprehended and kept under restraint.

4. In cases in which the Governor General in Council may, on due inquiry and matured deliberation, be satisfied that either the preservation of the tranquillity of the British territories, or of the dominions of the allies of the British Government, or the maintenance of the relations of amity subsisting between the British Government and other States, requires that any of the leaders or other persons of the above description, who may have committed the offences mentioned in section 2 of this Regulation, should be placed and detained under restraint, it shall be competent to the Governor General in Council to order any such persons having committed any of the said offences, but not otherwise, to be apprehended and committed to confinement at such place, and under the custody of such public officer, and detained in confinement for such time as may be deemed by the Governor General in Council necessary for the public good.

Punishment for emigrants or their descendants exciting disturbances in countries from which they emigrated.

5. *First.*—Any persons of the above description, or their descendants, who, while living under the protection of the British Government, shall enter the country from which they or their ancestors may have emigrated, or any other foreign country, and shall excite, or attempt to excite, disturbances in the said countries, shall be liable to be brought to trial for that offence,[a] and, if convicted, shall be sentenced to suffer imprisonment for the period of seven years.

Punishment for persons aiding or assisting in attempts to excite such disturbances.

Second.—Any persons, whether Native British subjects or aliens, who shall furnish emigrants from foreign countries with any assistance, either of men, money or arms, in prosecution of their attempts to excite disturbances in the country from which they may have emigrated, or in any other country, or shall otherwise aid such aliens in the prosecution of their criminal design, shall be liable to be brought to trial for that offence,[a] and, if convicted, shall be sentenced to suffer imprisonment for the term of seven years:

Proviso.

Provided however that, if the Judge[b] by whom the case may be tried shall be of opinion that the punishment established by this and the preceding clause should in any instance be mitigated, he shall submit the proceedings held on the trial [c-c]to the Nizamut Adálat,[c-c] who will recommend to the Governor General in Council such alleviation of the prescribed punishment as they may judge proper:

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[a] Certain words in s. 5, cls. (1) and (2), repealed by Act XVI of 1874, s. 1, have here been omitted.

In the Hill District of Arakan add here the words "before the Deputy Commissioner"—see Reg IX of 1874, Sch., *infra*, p. 361.

[b] The words "of Circuit" in s. 5, repealed by Act XVI of 1874, s. 1, have here been omitted.

In the Hill District of Arakan read here "Deputy Commissioner" for "Judge"—see Reg. IX of 1874, Sch., *infra*, p. 361.

[c-c] In the Hill District of Arakan read "through the Commissioner to the Chief Commissioner" for these words in s. 5—see Reg. IX of 1874, Sch., *infra*, p. 361.

Provided moreover that no sentence or order which may be passed on the trial of any persons under the provisions of the present Regulation shall be competent, or shall be construed, to preclude the Governor General in Council from the exercise of the power vested in the Government by section 4 of the said Regulation.

REGULATION III OF 1818.[a]

Passed on the 7th April, 1818.

A Regulation for the confinement of State Prisoners.

Preamble.

1. WHEREAS reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper;

and whereas it is fit that, in every case of the nature herein referred to, the determination to be taken should proceed immediately from the authority of the Governor General in Council;

and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor General in Council all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed;

and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life, and to his own wants and those of his family;

and whereas the reasons above declared sometimes render it necessary that the estates and lands of zamindárs, taluqdárs and others situated within the

---

[a] This Regulation has been declared to extend to the Hill District of Arakan—see Reg. IX of 1874, Sch., *infra*, p. 361, and the unrepealed parts of it have been declared to extend, *mutatis mutandis*, and from the 16th September, 1875, to have extended, to Lower Burma—see Act XI of 1889, s. 99 (*2*), *infra*, p. 334; they have also been declared in force in Upper Burma (except the Shan States)—see Act XX of 1886, Sch. II, Pt. I, *infra*, p. 368.

So much of this Regulation as was in force in any part of Upper Burma on the 4th March, 1889, has been extended to the Myelat, and the whole Regulation has been extended to all Shan States—see Notifications in Appendix, Pt. III, *infra*, pp. 501 and 502.

S. 491 of the Code of Criminal Procedure, 1882, does not apply to persons detained under this Regulation—see last clause of that section.

territories dependent on the Presidency of Fort William, should be attached and placed under the temporary management of the Revenue-authorities, without having recourse to any judicial proceeding;

and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government;

the Vice-President in Council has enacted the following rules, which are to take effect throughout the Provinces immediately subject to the Presidency of Fort William, from the date on which they may be promulgated.

Proceeding for placing persons under restraint as State prisoners

2. *First.*—When the reasons stated in the preamble of this Regulation may seem to the Governor General in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor General in Council, and under the hand of the Chief Secretary, or of one of the Secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.

Form of warrant.

Second.—The warrant of commitment shall be in the following form —

"To the[a] [*here insert the officer's designation*].

"Whereas the Governor General in Council, for good and sufficient reasons, has seen fit to determine that [*here insert the State prisoner's name*] shall be placed under personal restraint at [*here insert the name of the place*], you are hereby required and commanded, in pursuance of that determination, to receive the person abovenamed into your custody, and to deal with him in conformity to the orders of the Governor General in Council, and the provisions of Regulation III of 1818.

"Fort William, the

"By order of the Governor General in Council.

"*A. B.*, Chief Secy. to Govt"

Authority of warrant.

Third.—The warrant of commitment shall be sufficient authority for the detention of any State prisoner in any fortress, jail or other place within the territories subject to the Presidency of Fort William.[b]

Officers having custody of State prisoners to submit periodical reports

3. Every officer in whose custody any State prisoner may be placed shall, on the first of January and first of July of each year, submit a report to the Governor General in Council, through the Secretary to Government in the Political Department, on the conduct, the health and the comfort of such State prisoner, in order that the Governor General in Council may determine

[a] As to whom warrants may be directed, see Act XXXIV of 1850, s 1

[b] For power to remove a State prisoner to any other place of confinement in British India, see Act III of 1858, s 5, which was declared to be in force throughout the whole of British India except the Scheduled Districts by Act XV of 1874, s 3, in the Hill District of Arakan by Reg IX of 1874, s 3, and in Upper Burma (except the Shan States) by Act XX of 1886, s 6 (*l*)

whether the orders for his detention shall continue in force or shall be modified.

State prisoners in custody of Zila or City Magistrate by whom to be visited.

4. *First.*—When any State prisoner is in the custody of a Zila or City Magistrate, the Judges[a] are to visit such State prisoner on the occasion of the periodical sessions, and they are to issue any orders concerning the treatment of the State prisoner which may appear to them advisable, provided they be not inconsistent with the orders of the Governor General in Council issued on that head.

State prisoners in custody of public officer not being Zila or City Magistrate by whom to be visited.

Second.—When any State prisoner is placed in the custody of any public officer not being a Zila or City Magistrate, the Governor General in Council will instruct either the Zila or City Magistrate, or the Judge[a] or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods, and to submit a report to Government regarding the health and treatment of such prisoner.

Representations by State prisoners to be submitted to Government.

5. The officer in whose custody any State prisoner may be placed is to forward, with such observations as may appear necessary, every representation which such State prisoner may from time to time be desirous of submitting to the Governor General in Council.

Report to Government regarding confinement, &c., of prisoners.

6. Every officer in whose custody any State prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor General in Council, whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life.

Appropriation of allowance for support.

7. Every officer in whose custody any State prisoner may be placed shall take care that the allowance fixed for the support of such State prisoner is duly appropriated to that object.

8. [*Application of sections 3 to 7 to persons now confined as State prisoners.*] *Rep. by Act XVI of 1874, s. 1.*

Attachment of estates by order of Government without decision of Court.

9. Whenever the Governor General in Council, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any zamindár, jágirdár, taluqkdár or other person, without any previous decision of a Court of Justice, or other judicial proceeding, the grounds on which the Resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to

[a] The words "of circuit" in s. 4, repealed by Act XVI of 1874, s. 1, have here been omitted.

the Judge and Magistrate of the district in which the lands or estates may be situated[a], to[b] the Sadr Diwáni Adálat and Nizámat Adálat.

10. *First.*—The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government in the Revenue Department, and the collections shall be made and adjudged on the same principles as those of other estates held under khás management. Management of attached estates.

Second.—Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts, or for the realization of fines or otherwise, during the period in which they may be so held under attachment. Attached lands not liable to sale in execution.

Third.—In the cases mentioned in the preceding clause, the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts. Government to arrange for satisfaction of decrees.

11. Whenever the Governor General in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue-authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment. Release of estate from attachment.

B.—LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

ACT No. III of 1867.[c]

Received the Governor General's assent on the 25th January, 1867.

An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the North-Western Provinces of the Presidency of Fort William, and in the Punjab, Oudh, the Central Provinces and Lower Burma.

WHEREAS it is expedient to make provision for the punishment of public Preamble.

[a] Certain words in s. 9, repealed by Act XVI of 1874, s. 1, have here been omitted.
[b] *Sic.*, read "and to".
[c] This Act has been declared in force in Upper Burma (except the Shan States)—see Act XX of 1886, Sch. II, Pt. I, *infra*, p. 368.
Taking part in the game of "*ti*" or other game of a like nature is to be deemed gaming and playing within the meaning of this Act—see Act XVI of 1884, s. 2 (*1*), *infra*, p. 66.
For power of Chief Commissioner to extend the local application of this Act, see Act XVI of 1884, s. 4 (*1*), *infra*, p. 67.

gambling and the keeping of common gaming-houses in the territories[a] respectively subject to the governments of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William, of the Lieutenant-Governor of the Punjab, and to the administrations of the Chief Commissioner of Oudh, of the Chief Commissioner of the Central Provinces, and of the Chief Commissioner of Lower Burma[a]; It is hereby enacted as follows:—

Interpretation-clause.

1. In this Act—

"Lieutenant-Governor."

"Lieutenant-Governor" means the Lieutenant-Governor of the said North-Western Provinces or the Punjab, as the case may be:

"Chief Commissioner."

"Chief Commissioner" means the Chief Commissioner of Oudh, the Central Provinces or Lower Burma,[a] as the case may be:

"Common gaming-house."

"common gaming-house" means any house, walled enclosure, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, enclosure, room or place, whether by way of charge for the use of the instruments of gaming, or of the house, enclosure, room or place, or otherwise howsoever:

Number.

words in the singular include the plural and *vice versâ*; and

Gender.

words denoting the masculine gender include females.

Power to extend Act.

2. Sections 13, 17 and 18[b] of this Act shall extend to the whole of the said territories; and it shall be competent to the Lieutenant-Governor or the Chief Commissioner, as the case may be, whenever he may think fit, to extend, by a notification to be published in three successive numbers of the official Gazette, all or any of the remaining sections of this Act to any city, town, suburb, railway-station-house and place being not more than three miles distant from any part of such station-house within the territories subject to his government or administration, and in such notification to define, for the purposes of this Act, the limits of such city, town, suburb or station-house, and from time to time to alter the limits so defined.[c]

From the date of any such extension, so much of any rule having the force of law which shall be in operation in the territories to which such extension shall have been made, as shall be inconsistent with or repugnant to any section so extended, shall cease to have effect in such territories.

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[a] The territories are now known as Lower Burma—see Act XX of 1886, s. 2 (*1*) (*b*), *infra*, p. 364, and the Chief Commissioner is styled Chief Commissoner of Burma—see Proclamation, dated 25th September, 1886, Gazette of India, 25th *idem*, Pt. I, p. 539.

[b] S. 18 referred to in s. 2 has been repealed—see *infra*, p. 13.

[c] Under s. 2 the remaining sections of this Act have been extended to a large number of places in Burma, too numerous to be here specified.

3. Whoever, being the owner or occupier, or having the use, of any house, walled enclosure, room or place, situate within the limits to which this Act applies, opens, keeps or uses the same as a common gaming-house; and

Penalty for owning or keeping, or having charge of, gaming-house.

whoever, being the owner or occupier of any such house, walled enclosure, room or place as aforesaid, knowingly or wilfully permits the same to be opened, occupied, used or kept by any other person as a common gaming-house; and

whoever has the care or management of, or in any manner assists in conducting, the business of any house, walled enclosure, room or place as aforesaid, opened, occupied, used or kept for the purpose aforesaid; and

whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, walled enclosure, room or place,

shall be liable to a fine not exceeding two hundred rupees, or to imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding three months.

XLV of 1860

4. Whoever is found in any such house, walled enclosure, room or place playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding one month;

Penalty for being found in gaming-house.

and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

5. If the Magistrate of a district,[a, b] or other officer invested with the full powers of a Magistrate,[b] or the District Superintendent of Police, upon credible information, and after such inquiry as he may think necessary, has reason to believe that any house, walled enclosure, room or place is used as a common gaming-house,

Power to enter and authorize police to enter and search.

he may either himself enter, or by his warrant authorize any officer of police, not below such rank as the Lieutenant-Governor or Chief Commissioner shall appoint in this behalf, to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, walled enclosure, room or place,

and may either himself take into custody, or authorize such officer to take

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[a] For power of Local Government to authorize Magistrates of the second class to exercise the powers conferred by s. 5 on the Magistrate of the district, see Act XVI of 1884, s. 5, *infra*, p. 67.

[b] Now the District Magistrate or a Magistrate of the first class—see Act X of 1882, s. 3.

into custody, all persons whom he or such officer finds therein, whether or not then actually gaming;

and may seize or authorize such officer to seize all instruments of gaming, and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein;

and may search or authorize such officer to search all parts of the house, walled enclosure, room or place, which he or such officer shall have so entered, when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody;

and may seize or authorize such officer to seize and take possession of all instruments of gaming found upon such search.

Finding cards, &c., in suspected houses to be evidence that such houses are common gaming-houses.

6. When any cards, dice, gaming-tables, cloths, boards or other instruments of gaming are found in any house, walled enclosure, room or place, entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, walled enclosure, room or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or police-officer, or any of his assistants.

Penalty on persons arrested for giving false names and addresses.

7. If any person found in any common gaming-house entered by any Magistrate or officer of police under the provisions of this Act, upon being arrested by any such officer or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may upon conviction before the same or any other Magistrate be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance, if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

On conviction for keeping gaming-house, instruments of gaming to be destroyed.

8. On conviction of any person for keeping or using any such common gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all moneys seized therein to be

forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Proof of playing for stakes unnecessary.

9. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager or stake.

Magistrate may require any person apprehended to be sworn and give evidence.

10. It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any house, walled enclosure, room or place, entered under the provisions of this Act, to require any such persons to be examined on oath or solemn affirmation, and give evidence touching any unlawful gaming in such house, walled enclosure, room or place, or touching any act done for the purpose of preventing, obstructing or delaying the entry into such house, walled enclosure, room or place, or any part thereof, of any Magistrate or officer authorized as aforesaid.

No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or from being so examined at any subsequent time by or before the same or any other Magistrate, or by or before any Court on any proceeding or trial in any ways relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself.

Any such person so required to be examined as a witness, who refuses to make oath or take affirmation accordingly, or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person committing the offence described in section 178 or section 179 (as the case may be) of the Indian Penal Code.

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Witnesses indemnified.

11. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall in the opinion of the Magistrate make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, shall thereupon receive from the said Magistrate a certificate in writing to that effect, and shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

Act not to apply to certain games.

12. Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill wherever played.

Gaming and betting birds

13. A police-officer may apprehend without warrant—

any person found playing for money or other valuable thing with cards,

and animals to fight in public places.

dice, counters or other instruments of gaming, used in playing any game not being a game of mere skill, in any [a]street or thoroughfare or place to which the public have access[a] situated within the limits aforesaid, or

any person setting any birds or animals to fight in any public street, place or thoroughfare situated within the limits aforesaid, or

any person there present aiding and abetting such public fighting of birds and animals.

Such person when apprehended shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month;

Destruction of instruments of gaming found in public places.

and such police-officer may seize all instruments of gaming found in [a]such place[a] or on the person of those whom he shall so arrest, and the Magistrate may on conviction of the offender order such instruments to be forthwith destroyed.

Offences by whom triable.

14. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed.

But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure, 1882,[b] as to the amount of fine or imprisonment he may inflict. X of 1882.

Penalty for subsequent offence.

15. Whoever, having been convicted of an offence punishable under section 3 or section 4 of this Act, shall again be guilty of any offence punishable under either of such sections, shall be subject for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission of an offence of the same description:

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year.

Portion of fine may be paid to informer.

16. The Magistrate trying the case may direct any portion of any fine which shall be levied under sections 3 and 4 of this Act, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under this Act, to be paid to an informer.

Recovery and application of fines.

17. All fines imposed under this Act may be recovered in the manner prescribed by sections 386, 387 and 389 of the Code of Criminal Procedure, 1882,[c] and such fines shall (subject to the provisions contained in the last preceding section) be applied as the Lieutenant-Governor or Chief Commissioner, as the case may be, shall from time to time direct.

[a-a] These words in s. 13 have been substituted by Act XVI of 1884, s. 6—see *infra*, p. 67.

[b] See Act X of 1882, ss. 3, 32, 34 and 446.

[c] The sections of the new Code cited in s. 17 have been substituted for s. 307 of Act X of 1872—see Act X of 1882, s. 3

18. [*Offences under this Act to be offences within meaning of Penal Code.*] *Rep. by Act XVI of 1874, s. 1.*

ACT No. XXXII OF 1867.[a]

Received the Governor General's assent on the 18th July, 1867.

An Act to enable the Governor General of India in Council to delegate to a Chief Commissioner any power conferred on a Local Government by an Act of the Governor General of India in Council.

Preamble.

WHEREAS it is expedient to enable the Governor General of India in Council to delegate to any of the Chief Commissioners of Oudh, the Central Provinces and Lower Burma[b] any power conferred on the Governor General in Council as the Local Government of the territories under the administration of such Commissioner by any Act of the said Governor General in Council; It is hereby enacted as follows:—

Governor General in Council empowered to delegate to Chief Commissioners certain powers.

1.[c] It shall be lawful for the Governor General of India in Council, by a notification published in the Gazette of India, to delegate to the Chief Commissioner of Oudh, the Central Provinces or Lower Burma[b] as the case may be, all or any of the powers heretofore or hereafter conferred by any Act of the Governor General of India in Council on the Governor General of India in Council as the Local Government of the territories under the administration of such Chief Commissioner; and all acts done by the Chief Commissioner, to whom any such power shall have been delegated as aforesaid, in exercise of the same power, shall be as valid as if they had been done by the said Governor General in Council.

Short title.

2. This Act may be called the Chief Commissioners' Powers Act.

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[a] This Act has been declared in force in Upper Burma (except the Shan States)—see Act XX of 1886, Sch. II, Pt. I, *infra*, p. 868.

[b] Since Upper Burma was placed under the administration of the Chief Commissioner of Lower Burma this officer is styled Chief Commissioner of Burma—see Proclamation, dated 25th September, 1886, Gazette of India, 25th *idem*, Pt. I, p. 539.

[c] Under s. 1 the following powers have been delegated to the Chief Commissioner of Burma:—

(*a*) the powers of the Governor General in Council under Act XXX of 1852 (*for the naturalization of Aliens*)—Gazette of India, 20th June, 1874, p. 351:

(*b*) the powers of the Local Government under Act I of 1859 (*for the amendment of the law relating to Merchant Seamen*)—Gazette of India, 22nd March, 1873, p. 236:

(*c*) the powers of the Local Government under Act V of 1861 (*for the regulation of Police*), except s. 4—Gazette of India, 7th March, 1868, p. 358.

Note.—In Acts of the Governor General in Council passed after the 3rd January, 1868, the expression "Local Government" includes a Chief Commissioner—see Act I of 1868, s. 2 (*10*).

THE PRISONS ACT, 1870.

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ACT No. XXVI OF 1870.[a]

Received the Governor General's assent on the 3rd October, 1870.

An Act to amend the law relating to prisons.

WHEREAS it is expedient to amend the law relating to prisons in the North-Western Provinces, the Punjab, Oudh, the Central Provinces and Lower Burma, and to provide rules for the regulation of such prisons; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Prisons Act, 1870. Short title.

It extends only to the territories[b] respectively under the government of the Lieutenant-Governors of the North-Western Provinces and the Punjab, and under the administration of the Chief Commissioners of Oudh, the Central Provinces and Lower Burma.[b] Local extent.

[*Commencement.*] *Rep. by Act XVI of 1874, s. 1.*

2. [*Repeal of enactments.*] *Rep. by Act XII of 1873, s. 1.*

3. In this Act— Interpretation-clause.

"prison" means any gaol or penitentiary, and includes the airing-grounds or other grounds or buildings occupied for the use of the prison; "prison".

"criminal prisoner" means any prisoner charged with or convicted of a crime; and "criminal prisoner".

"civil prisoner" means any prisoner confined in a civil jail, or on the civil side of a jail. "civil prisoner".

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[a] This Act has been declared in force in Upper Burma (except the Shan States)—see Act XX of 1886, Sch. II, Pt. I, *infra*, p. 369.

[b] The territories are now known as Lower Burma—see Act XX of 1886, s. 2 (*1*) (*b*), *infra*, p. 364, and the Chief Commissioner is styled Chief Commissioner of Burma—see Proclamation, dated 25th September, 1886, Gazette of India, 25th *idem*, Pt. I, p. 539.

CHAPTER II.

MAINTENANCE AND OFFICERS OF PRISONS.

Local Government to provide prison-accommodation

4. The Local Government shall provide for the prisoners in the territories under such Government accommodation in a prison or prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners.

Temporary shelter of prisoners.

5. Whenever it appears to the Local Government that the number of prisoners in any prison is greater than can conveniently or safely be kept therein,

or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made by such officer and in such manner as the Local Government from time to time directs, for the temporary shelter and safe custody of so many of the prisoners as cannot be conveniently or safely kept in the prison.

Prisoners for whom such temporary shelter is provided shall be subject to the same rules as if they were within the prison.

Inspector General of Prisons.

6. [a]An Inspector General of Prisons shall be appointed in the North-Western Provinces, the Punjab and Oudh, by the Local Government, and in the Central Provinces and Lower Burma, by the Governor General in Council.[a]

In each Inspector General so appointed shall be vested (subject to the orders of the Local Government) the general control and superintendence of all prisons situate in the territories under such Government.

Officers of prison.

7. For every prison there shall be a superintendent, a medical officer (who may also be the superintendent), a goaler and such subordinate officers as the Local Government thinks necessary.

Subject to the orders of the Governor General in Council, the Local Government may direct that for any specified prison there shall also be a deputy medical officer and a deputy goaler.

Appointment of officers.

8. The Local Government shall appoint the superintendent and the medical officer and the deputy medical officer.

The superintendent (subject to the approval of the Inspector General of Prisons) shall appoint the gaoler and deputy gaoler.

The superintendent shall also appoint the subordinate officers.

Salaries, sus-

9. Every officer appointed under this Act shall receive such salary as

[a-a] The first sentence of s. 6 has been substituted by Act XIV of 1878, s. 2.

(subject to the approval of the Governor General of India in Council) the Local Government directs; and may be suspended or dismissed by the authority appointing him: pension and dismissal of officers.

Provided that no gaoler or deputy gaoler shall be dismissed without the consent of the Inspector General of Prisons.

Any subordinate officer dismissed under this section may appeal to the Inspector General, whose orders on such appeal shall be final.

CHAPTER III.

DUTIES OF OFFICERS.

Generally.

10. All officers of a prison shall obey the directions of the superintendent: all subordinate officers shall perform such duties as may be directed by the gaoler with the sanction of the superintendent; and the duties of each subordinate officer shall be inserted in a book to be kept by him. Officers to obey superintendent.

11. No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner. Officers not to sell or let to prisoners.

12. No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison: nor, except so far as is expressly allowed by rules made under section 54, shall he derive any benefit, directly or indirectly, from the sale of any article on behalf of the prison or belonging to a prisoner. Officers not to contract with prisoners; nor to benefit by sales.

Superintendent.

13. Subject to the orders of the Inspector General of Prisons, the superintendent shall— Duties of superintendent.

manage the prison in all matters relating to discipline, labour, expenditure, punishment and control:

correspond on all matters connected with the prison with and through the Inspector General:

submit to the Inspector General all bills of prison-expenditure with proper vouchers for audit:

report to the Inspector General from time to time, as they occur, all escapes and recaptures, and all outbreaks of epidemic disease:

send to the Inspector General returns of all prisoners sentenced to transportation:

periodically inspect all property of the Government in his charge, and report thereon to the Inspector General; and

generally, obey all rules made under section 54 for the guidance of the superintendent.

The superintendent shall also obey all orders respecting the prison given by the Magistrate of the District, or the Deputy Commissioner, as the case may be, and shall report to the Inspector General all such orders and the action taken thereon

Medical Officer.

Power to make rules as to medical officer's duties

14. The Local Government shall make rules as to each of the following matters —

how often the medical officer shall visit the prison and see each prisoner :

the records to be made respecting sick prisoners

periodical inspection of every part of the prison :

reports on its cleanliness, drainage, warmth and ventilation

reports on the provisions, water, clothing and bedding supplied to the prisoners.

Medical officer to obey such rules, to report special cases,

The medical officer shall obey such rules.

15. Whenever the medical officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the medical officer shall report the case in writing to the superintendent, together with such directions as the medical officer thinks proper.

to make entries as to death of prisoners

16. On the death of any prisoner, the medical officer shall forthwith record in writing the following particulars, namely,—

when the deceased was taken ill,

when the medical officer was first informed of the illness,

the nature of the disease,

when the prisoner died,

and (in cases where a *post mortem* examination is made) an account of the appearances after death,

together with any special remarks that appear to the medical officer to be required

Deputy medical officer

17. Where a deputy medical officer is appointed to a prison, he shall be competent to perform any duty required by this Act, or by any rule made hereunder, to be performed by the medical officer

Subordinate medical officer.

When there is no deputy medical officer, or when his services are not available by reason of sickness or other cause, the Local Government may, by

general or special order, appoint a subordinate medical officer to act as a substitute for the medical officer, and the subordinate medical officer so appointed shall perform all the duties of the medical officer.

Gaoler.

Residence of gaoler.

18. The gaoler shall reside in the prison, unless the superintendent permits him in writing to reside elsewhere. The gaoler shall not, without the Inspector General's sanction, be concerned in any other employment.

Gaoler to deliver list of prisoners in punishment-cells,

19. The gaoler shall deliver to the medical officer daily a list of such prisoners as are confined in punishment-cells.

to give notice of death of prisoners,

20. Upon the death of a prisoner, the gaoler shall give immediate notice thereof to the superintendent.

to keep enumerated books and accounts.

21. The gaoler shall keep, or cause to be kept, the following records:—

(1) a register of warrants;

(2) a book showing when each prisoner is to be released;

(3) a punishment-book for the entry of the punishments inflicted for prison-offences;

(4) a visitor's book for the entry of any observations made by visitors to the prison;

(5) a record of the money and other articles taken from prisoners;

and all such other records as may be prescribed by rules made under section 54.

responsible for safe custody of documents,

22. The gaoler shall be responsible for the safe custody of the records to be kept by him under section 21, and also for the commitments and all other documents confided to his care.

not to be absent without leave.

23. The gaoler shall not be absent from the prison for a night without permission in writing from the superintendent; but, if absent without leave for a night from unavoidable necessity, he shall report the fact and the cause of it to the superintendent.

Deputy gaoler.

24. Where a deputy gaoler is appointed to a prison, he shall be competent to perform any duty required by this Act or by any rule made under section 54 to be performed by the gaoler.

Where there is no deputy gaoler, or where his services are not available by reason of sickness or other cause, the superintendent shall, when the gaoler is absent from the prison or temporarily incapacitated, appoint an officer of the prison to act as his substitute during such absence or incapacity; and the

substitute so appointed shall have all the powers and perform all the duties of the gaoler.

Subordinate Officers

Powers of gate porter

25. The officer acting as gate-porter, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search any person suspected of bringing in spirits or other prohibited articles into the prison, or of carrying out any property belonging to the prison, and if any such articles or property be found, shall give immediate notice thereof to the gaoler.

Subordinate officers not to be absent without leave.

26. Subordinate officers shall not be absent from the prison without leave from the superintendent, or from the gaoler, and before absenting themselves they shall leave their keys in the gaoler's office.

CHAPTER IV

Admission, Removal and Discharge of Prisoners

Prisoners to be searched on entrance.

27. When a prisoner is first admitted, and whenever he afterwards enters the prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.

Medical examination of criminal prisoners

Every criminal prisoner shall also, as soon as possible after admission, be examined by the medical officer, who shall enter in a book, to be kept by the gaoler, a record of the state of the prisoner's health, and any observations which the medical officer thinks fit to add

Effects of criminal prisoners retained

28. All money or other effects in respect whereof no order of a competent Court has been made, and which may be brought into the prison by any criminal prisoner, or sent to the prison for his use, shall be placed in the custody of the gaoler

Medical examination before removal and discharge of prisoners

29. All prisoners, previously to being removed to any other prison, shall be examined by the medical officer.

No prisoner shall be removed to any other prison unless the medical officer certifies that the prisoner is free from any illness rendering him unfit for removal

No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, nor until, in the opinion of the medical officer, such discharge is safe

CHAPTER V.

Discipline of Prisoners.

Requisitions of Act as to separation of prisoners.

30. The requisitions of this Act, with respect to the separation of prisoners, are as follows :—

(1) In a prison containing female prisoners as well as males, the women shall be imprisoned in separate buildings or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the men.

(2) In a prison where children under twelve years of age are confined, means shall be provided for separating them altogether from the other prisoners.

(3) Criminal prisoners before trial shall be kept apart from convicted prisoners.

(4) Civil prisoners shall be kept apart from criminal prisoners.

Rules as to separate confinement.

31. The Local Government shall have power to make rules—

(1) as to what cells only shall be used for the separate confinement of prisoners:

(2) as to the time during which prisoners not guilty of offences against prison rules may be confined separately.

Cells to be furnished with means of communication.

32. No cell shall be used for separate confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison.

Prisoners under sentence of death.

33. Every prisoner under warrant or order for execution shall, immediately on his arrival in the prison after sentence, be searched by, or by order of, the gaoler, and all articles shall be taken from him which the gaoler deems it dangerous or inexpedient to leave in his possession.

Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of an officer or guard.

CHAPTER VI.

Food, Clothing and Bedding of Prisoners.

Civil prisoner may maintain himself.

34. A civil prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources at proper hours, food, clothing, bedding or other necessaries, but subject to examination and to such rules as may be approved by the Inspector General.

Civil prisoner

35. No part of any food, clothing, bedding or other necessaries belonging

not to sell provisions.

to any civil prisoner shall be sold to any other prisoner; and any civil prisoner transgressing this regulation shall lose the privilege of purchasing food or receiving it from private sources, for such time as the superintendent thinks proper.

Allowance of clothing and bedding.

36. Every civil prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the superintendent with such clothing and bedding as may be necessary.

Judgment-creditor to defray such allowance.

When any such prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, shall be liable to pay to the superintendent on demand the cost of the clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner shall be released.

CHAPTER VII.

Employment of Prisoners.

Work and earnings of civil prisoners.

37. Civil prisoners may, with the superintendent's permission, work and follow their respective trades and professions.

Civil prisoners finding their own implements and not maintained at the expense of the prison shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements, or are maintained at the expense of the prison, shall be subject to a deduction, to be determined by the superintendent, for the use of implements and the cost of maintenance.

Examination by medical officer of labouring prisoners.

38. The medical officer shall, from time to time, examine the labouring prisoners while they are employed, and shall enter in his journal the name of any prisoner whose health he thinks likely to be injured by a continuance at hard labour; and thereupon such prisoner shall not again be employed at such labour until the medical officer certifies that he is fit for such employment.

But if the medical officer certifies that such prisoner may without detriment to his health be employed on some lighter kind of labour, it shall be lawful for the gaoler so to employ him.

Employment of prisoners sentenced to simple imprisonment.

39. Provision shall be made by the superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment.

The superintendent shall make rules as to the amount and nature of such employment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work, excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such prisoners.

(*Chap. VIII.—Health of Prisoners. Secs. 40-42. Chap. IX.—Visits to and Correspondence of Prisoners. Secs. 43-44.*)

CHAPTER VIII.

Health of Prisoners.

Names of sick prisoners to be reported to gaoler.

40. The names of prisoners desiring to see the medical officer or appearing out of health in mind or body shall be reported by the officer attending them to the gaoler.

Gaoler to report them to medical officer.

The gaoler shall, without delay, call the attention of the medical officer to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention,

and shall carry into effect the medical officer's written directions respecting alterations of the discipline or treatment of any such prisoner.

Entry of directions by medical officer.

41. All directions given by the medical officer in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the medical officer himself or under his superintendence, shall be entered day by day in his journal, which shall have a separate column wherein entries shall be made by the gaoler stating in respect of each direction the fact of its having been or not having been complied with, accompanied by such observations, if any, as the gaoler thinks fit to make, and the date of the entry.

Infirmaries.

42. In every prison an infirmary or proper place for the reception of sick prisoners shall be provided.

CHAPTER IX.

Visits to and Correspondence of Prisoners.

Visits to prisoners.

43. Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison of persons with whom prisoners before trial may desire to communicate.

Correspondence of prisoners.

The Local Government shall also impose such restrictions upon the communication and correspondence of prisoners with their friends as it thinks necessary for the maintenance of good order and discipline.

Power of gaoler as to visitors.

44. The gaoler may demand the name and address of any visitor to a prisoner; and, when the gaoler has any ground for suspicion, may search visitors, or cause them to be searched, but the search shall not be in the presence of any prisoner or of another visitor.

In case of any such visitor refusing to be searched, the gaoler may deny him admission; and the grounds of such proceeding, with the particulars thereof, shall be entered in his journal.

CHAPTER X.

OFFENCES IN RELATION TO PRISONS.

Carrying liquor, tobacco or drugs into prison,

45. Whoever, contrary to the regulations of the prison, brings, throws or attempts by any means whatever to introduce into any prison, or any place provided under section 5 for the temporary shelter and safe custody of prisoners, any spirituous or fermented liquor, or tobacco, or intoxicating or poisonous drug,

suffering liquor, &c, to be sold or used in prison,

and every officer of a prison who knowingly suffers any such liquor, tobacco or drug to be sold or used in such prison or place contrary to such regulations,

carrying letters into and out of prison,

and whoever, contrary to such regulations, conveys, or attempts to convey, any letter or other article not allowed by such regulations into or out of any such prison or place,

abetment of such offences;

and whoever abets within the meaning of the Indian Penal Code any offence made punishable by this section, XLV of 1860.

punishment for such offences.

shall, on conviction before a Magistrate, be liable to rigorous imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

Notice of penalties to be placed outside prison.

46. The superintendent shall cause to be affixed, in a conspicuous place outside the prison or the place provided as aforesaid, a notice setting forth the penalties incurred by persons committing any offence under section 45.

CHAPTER XI.

PRISON-OFFENCES.

List of prison-offences.

47. The following acts are declared to be offences against prison-discipline:—

(1) wilful disobedience to the regulations of the prison by any prisoner;

(2) assaults or use of criminal force by any prisoner;

(3) insulting or threatening language by any prisoner to any officer or prisoner;

(4) indecent or disorderly behaviour by any prisoner;

(5) wilfully disabling himself from labour;

(6) contumaciously refusing to work;

(7) filing or cutting irons or bars;

(8) idleness or negligence at work by any convicted criminal prisoner;

(9) wilful mismanagement of work by any convicted criminal prisoner;

(10) wilful damage to prison-property;

(11) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

Superintendent's power to punish prison-offenders.

48. The superintendent may examine any person touching such offences, and determine thereupon, and punish such offences—

(1) by imprisoning the offender in solitary confinement for any time not exceeding seven days;

(2) by ordering the offender for any time not exceeding three days to close confinement, to be there kept upon a diet reduced to such extent as the Local Government shall prescribe;

(3) by corporal punishment not exceeding thirty stripes of a ratan; or

(4) where the offender is not sentenced to rigorous imprisonment, by hard labour for any time not exceeding seven days.

The gaoler shall enter in a separate book, called the punishment-book, a statement of the nature of any offence that has been punished under this section, with the addition of the name of the offender, the date of the offence, and the amount of punishment inflicted. Such statement shall be signed by the superintendent.

Punishment of prisoners by Magistrate.

49. If any prisoner is guilty of repeated offences against prison-discipline, or is guilty of any offence against prison-discipline which the superintendent thinks is not adequately punishable under section 48, the superintendent shall report the same to the Magistrate of the district[a] or any Magistrate empowered to receive complaints without reference by the Magistrate of the district.[a]

Such Magistrate shall have power to inquire upon oath and to determine concerning any matter so reported to him, and to sentence the offender to be punished—

by confinement in a punishment-cell or in irons for any term not exceeding six months,

or by corporal punishment not exceeding thirty stripes of a ratan,

or by rigorous imprisonment for a term not exceeding six months, such term to be in addition to the term for which he is undergoing imprisonment.

Nothing in this or the last preceding section shall authorize the infliction of corporal punishment, or confinement in irons, on any female prisoner or any civil prisoner.

Corporal punishment.

50. All corporal punishment within the prison shall be inflicted in the

[a] Now the District Magistrate—see Act X of 1882, s. 3.

presence of the superintendent, subject to the law[a] for the time being in force relating to the infliction of corporal punishment and the precautions to be taken in reference thereto.

Penalty on officers ill-treating prisoners or violating rules.

51. Every gaoler and subordinate officer of a prison ill-treating any prisoner, or wilfully violating or neglecting any rule contained in this Act or made under section 54, shall be liable, on conviction before the superintendent, to fine not exceeding one hundred rupees, or, on conviction before a Magistrate not being the superintendent, to fine not exceeding two hundred rupees, or rigorous imprisonment for a term not exceeding one month, or both.

Any fine imposed by the superintendent under this section may be recovered, either by deductions from the convicted officer's salary and allowances or under the law[b] for the time being in force for the recovery of fines.

No person shall, under this section, be punished twice for the same offence.

CHAPTER XII.

MISCELLANEOUS.

Confinement in irons of prisoners sentenced to rigorous imprisonment.

52. Whenever the superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, the superintendent may so confine them.

Confinement in irons by gaoler of his own authority.

53. Except in case of urgent necessity, no prisoner shall be put in irons or under mechanical restraint by the gaoler of his own authority, and notice thereof shall be forthwith given to the superintendent.

Except in case of urgent necessity, no prisoner shall be kept in irons or under mechanical restraint for more than twenty-four hours, without an order in writing from the superintendent specifying the cause thereof, and the time during which the prisoner is to be kept in irons or under mechanical restraint. Such order shall be kept by the gaoler as his warrant.

Power to make supplementary prison-rules.

54. The Local Government may, from time to time, make rules consistent with this Act—

(1) for the government of prisons and for the guidance of all officers appointed hereunder:

(2) as to sales of articles on behalf of prisons or belonging to prisoners, and as to the commission receivable thereon:

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[a] See now ss. 390–395 of Act X of 1882.

[b] See Act I of 1868, s. 5.

(3) as to the food and clothing of criminal prisoners:
(4) for the employment and control of convicts within or without prisons, and for the guidance of the guards in charge of such convicts:
(5) for remission of sentences:
(6) for rewards for good conduct; and
(7) for the appointment and guidance of visitors of prisons.

Copies of such rules, so far as they affect the government of prisons, shall be exhibited in some place to which all persons employed within a prison have access.

Present rules.

55. All rules now in force relating to any of the matters mentioned in sections 14, 31, 39 and 54 shall, so far as such rules are consistent with this Act, be deemed to have been made under those sections respectively.

Exercise of powers of superintendent.

56. All or any of the powers and duties conferred and imposed by this Act on a superintendent may be exercised and performed by such other officer as the Local Government from time to time appoints in this behalf.

SCHEDULE.—[*Enactments repealed.*] *Rep. by Act XII of 1873, s. 1.*

THE BURMA FERRIES ACT, 1873.

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ACT No. II OF 1873.[a]

Received the Governor General's assent on the 21st January, 1873.

An Act for regulating Ferries in Lower Burma.

Preamble. WHEREAS it is expedient to regulate the public ferries within the province of Lower Burma; It is hereby enacted as follows:—

I.—Preliminary.

Short title. 1. This Act may be called the Burma Ferries Act, 1873;

Local extent. It extends only to the territories under the administration of the Chief Commissioner of Lower Burma.[b]

[*Commencement.*] *Rep. by Act XVI of 1874, s. 1.*

II.—Public Ferries.

Power to declare and establish public ferries. 2. The Chief Commissioner may declare what ferries within any part of Lower Burma shall be deemed public ferries, and the district in which, for the purposes of this Act, they shall be deemed to be situate,

and may at any time hereafter establish new ferries, where, in his opinion, they are needed,

and may, from time to time, change the course of any public ferry,

or discontinue any public ferry which he deems unnecessary.

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[a] This Act has been declared in force in Upper Burma (except the Shan States)—see Act XX of 1886, Sch. II, Pt. I, *infra*, p. 369.

[b] The territories are now known as Lower Burma—see Act XX of 1886, s. 2 (*1*) (*b*), *infra*, p 364, and the Chief Commissioner is styled Chief Commissioner of Burma—see Proclamation, dated 25th September, 1886, Gazette of India, 25th *idem*, Pt. I, p. 539.

Every such declaration, establishment, change or discontinuance shall be made by notification in the local official Gazette.

Superintendence of ferries.

3. The immediate superintendence of all public ferries shall, except as hereinafter provided, be vested in the Deputy Commissioner of the district in which they are situate,

and he shall make all necessary arrangements for the supply of boats for such ferries and for the collection of the authorized tolls leviable thereat.

Management may be vested in local municipality

4. The Chief Commissioner may direct that any public ferry situated within the limits of a town may be managed by the officer or public body charged with the superintendence of the municipal arrangements of such town,

and may further direct that all or any part of the proceeds from such ferry shall be paid into the municipal fund of such town,

and proceeds paid into municipal fund.

and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid accordingly.

Letting ferry tolls by auction.

5. The tolls of any public ferry may be put up to public auction for such term not exceeding three years as may be deemed expedient by the Commissioner of the division in which such ferry is situate, and may be let to the highest bidder.

The lessee shall conform to the rules made under this Act for the management and control of such ferry,

and may be called upon by the officer putting the tolls of the ferry up to auction to give such security for his good conduct and for the punctual payment of the rent as such officer may deem fit.

Such officer may, for sufficient reason duly recorded in writing, refuse to accept the offer of the highest bidder, and may accept any other bid, or may withdraw the tolls from auction.

Power to make rules.

6. Subject to the revision and confirmation of the Chief Commissioner, the Commissioner of each division shall have power to make rules consistent with this Act—

for the control and the management of all public ferries within his division;

for regulating the time and manner in which, and the terms on which, the tolls of such ferries may be let by auction;

for collecting the rents payable for the tolls of such ferries;

and for fixing the limits of the same:

and, when the tolls of a ferry have been let under section 5, he shall have power (subject as aforesaid) to make additional rules—

for regulating the number and kinds of boats and their dimensions, and

the number of crew for each boat, which the lessee of the tolls will be required to keep;

the hours during which he shall be bound to ply,

and the number of passengers, carts, carriages and animals, and the quantity of goods, that may be carried in each kind of boat at one trip;

and for the keeping of such boats continually in good condition for the safe conveyance of passengers and property.

The lessee shall make such returns of traffic as the Commissioner may from time to time require.

Private ferry not to ply within certain distance of public ferry without sanction.

7. No person shall, except with the sanction of the officer charged with the management of a public ferry, keep a ferry-boat for the purpose of plying for hire within the limits of such public ferry.

Nothing hereinbefore contained shall prevent persons plying between two places, one of which is without and one within the said limits, or apply to boats which the Chief Commissioner expressly exempts from the operation of this section.

III.—Tolls.

Tolls.

8. Tolls, according to such rates as are from time to time fixed by the Chief Commissioner, shall be levied on all persons, animals and other things carried by means of any public ferry:

Provided that the Chief Commissioner may, from time to time, declare what persons, animals or other things shall, when employed or transmitted on the public service, or for other sufficient reason, be exempt from payment of such tolls.

Where the tolls of a ferry have been let under section 5, any such declaration, if made after the date of the auction, shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Commissioner of the division with the concurrence of the Chief Commissioner.

Table of tolls.

9. The lessee or other person authorized to collect the tolls of any public ferry shall affix a table of such tolls, legibly written or printed in the vernacular language, in some conspicuous place near the ferry,

and shall be bound to produce, on demand, a list of the tolls, signed by the Deputy Commissioner or such other officer as he appoints on this behalf.

Tolls or rents to be credited to district fund.

10. All tolls or rents received under this Act shall, except in the cases provided for by section 4, be credited to the district fund.

IV.—Penalties.

Penalty for

11. Every lessee or other person authorized to collect the tolls of a public

ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in section 9,

or who wilfully removes, alters or defaces such table, or allows it to become illegible,

or who fails to produce, on demand, the list of the tolls mentioned in section 9,

shall be liable to fine not exceeding twenty rupees.

failing to affix, or for removing, &c., table of tolls.

12. Every such lessee or other person as aforesaid asking or taking other than the lawful toll,

or without due cause delaying any person, animal or other thing,

shall be liable to a penalty not exceeding fifty rupees.

Penalty for taking unlawful toll, and for causing delay.

13. In the event of any breach by a lessee of the tolls of a ferry, of the rules for the management of such ferry made under section 6,

the Deputy Commissioner may impose upon him a fine not exceeding twenty rupees,

and in that event, or in the event of repeated liability to the penalties respectively provided by sections 11 and 12,

the Deputy Commissioner may also, with the sanction of the Commissioner the division, cancel the lease of the tolls of such ferry and make other arrangements for its management during the whole or any part of the term for which the tolls were let.

Cancelment of lease on breach of rules.

14. Every person crossing at any public ferry who refuses to pay the proper toll,

or who, with intent of avoiding payment thereof, fraudulently or forcibly crosses any ferry-station without paying the toll,

or who obstructs any toll-collector or lessee of the tolls of a public ferry, or any of his assistants, in any way in the execution of their duty under this Act,

shall be liable to fine not exceeding fifty rupees over and above the value of the damage, if any, which he has done.

Penalties on passengers offending.

15. Whoever conveys for hire any passenger, animal, cart, carriage or other vehicle, or any goods or merchandise, to or from any point within the limits assigned to each public ferry, in contravention of the provisions hereinbefore contained, shall be liable to fine not exceeding fifty rupees.

Where the tolls of such ferry have been let under the provisions hereinbefore contained, the whole or any portion of any penalty realized under this section or section 14 may, at the discretion of the convicting Magistrate or Bench of Magistrates, be paid to the lessee.

Penalty for plying within public ferry-course without license.

16. All offences against this Act shall be heard and determined by any

Officers by

whom offences are triable.

Magistrate or Bench of Magistrates; and any Magistrate or Bench of Magistrates having summary jurisdiction under Chapter XXII of the Code of Criminal Procedure, 1882,[a] shall try such offences in manner provided by that chapter. X of 1882.

Every Magistrate or Bench of Magistrates trying offences under this section may enquire into and assess the value of the damage (if any) done by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act; and the amount so ordered to be paid shall be leviable as if it were a fine.[b]

ACT No. XIV OF 1879.[c]

Received the Governor General's assent on the 5th September, 1879.

An Act for the regulation and control of Hackney-carriages in certain Municipalities and Cantonments.

Preamble.

WHEREAS it is expedient to provide for the regulation and control of hackney-carriages in certain municipalities and cantonments; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Hackney-carriage Act, 1879:

Commencement.

and it shall come into force at once;

Saving.

but nothing herein contained shall affect any power conferred by any law relating to municipalities, or any rule made in exercise of any such power.

Interpretation-clause.

2. In this Act—

"hackney-carriage" means any wheeled vehicle drawn by animals and used for the conveyance of passengers, which is kept, or offered, or plies, for hire; and

"committee" means a municipal committee, or a body of municipal commissioners, constituted under the provisions of any enactment for the time being in force.[d]

Application of Act to municipalities.

3. The Lieutenant-Governors of the North-Western Provinces and the Punjab, and the Chief Commissioners of Oudh, the Central Provinces, Lower

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[a] Chap. XXII of Act X of 1882 has been substituted in s. 16 for Chap. XVIII of Act X of 1872—see Act X of 1882, s. 3.

[b] See Act I of 1868, s. 5.

[c] This Act has been extended, under s. 5 of the Scheduled Districts Act, 1874, to Upper Burma (except the Shan States)—see Notification in Appendix, Pt. I, *infra*, p. 491.

[d] See for Lower Burma, Act XVII of 1884, s. 6, *infra*, p. 234, and for Upper Burma, Reg. V of 1887, s 4, *infra*, p. 417.

Burma,[a] Assam, Ajmere and Coorg, may, by notification in the official Gazette, apply this Act to any municipality in the territories[b] administered by them respectively.[c]

When this Act has been so applied to any municipality, the committee of such municipality may from time to time make rules for the regulation and control of hackney-carriages within the limits of such municipality, in the manner in which, under the law[d] for the time being in force, it makes rules or bye-laws for the regulation and control of other matters within such limits. Power of committees to make rules.

Every rule made under this section shall, when confirmed by the Local Government and published for such time and in such manner as the Local Government may from time to time prescribe, have the force of law : Confirmation and publication of rules.

Provided that the Local Government may at any time rescind any such rule. Power of Local Government to rescind rules.

4. The Local Government of any of the said territories may from time to time, subject to the control of the Governor General in Council, make rules for the regulation and control of hackney-carriages in any military cantonment situated in the territory administered by it; and Power to make rules for cantonments.

the Governor General in Council may from time to time make rules for the regulation and control of hackney-carriages in any place in India, but not in British India, in which British troops are cantoned.

All rules made under this section, when published for such time and in such manner as the authority making the same may from time to time prescribe, shall have the force of law.

5. The authority making any rules under this Act may extend their operation to any railway-station, or specified part of a road, not more than six miles from the local limits of the municipality or cantonment concerned: Power to extend operation of rules beyond limits of municipality or cantonment.

Provided that such extension shall be made, in the case of a municipality, with the sanction of the Local Government, and, in the case of a cantonment situate in British India, subject to the control of the Governor General in Council.

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[a] Since Upper Burma was placed under the administration of the Chief Commissioner of Lower Burma, this officer is styled Chief Commissioner of Burma—see Proclamation, dated 25th September, 1886, Gazette of India, 25th *idem*, Pt. I, p. 539.

[b] The territory is now known as Lower Burma—see Act XX of 1886, s. 2 (*l*) (*b*), *infra*, p. 364.

[c] Under s. 3 the Act has been applied to the municipalities of—

Rangoon—see Burma Gazette,		14th August, 1880, Pt. II, p. 234.
Tounghoo	ditto,	22nd October, 1881, Pt. I, p. 816.
Akyab	ditto,	10th March, 1883, Pt. I, p. 93.
Prome	ditto,	12th May, 1883, Pt. I, p. 157.
Moulmein	ditto,	14th June, 1884, Pt. I, p. 172.
Pegu	ditto,	21st November, 1885, Pt. I, p. 865.
Mandalay	ditto,	18th August, 1888, Pt. I, p. 384.
Bassein	ditto,	20th April, 1889, Pt. I, p. 197.

[d] See for Lower Burma, Act XVII of 1884, s. 148, *infra*, p. 274, and for Upper Burma, Reg. V of 1887, ss. 11 and 12, *infra*, p. 419.

When any rules have been made under this Act for any municipality, the Local Government may, subject to the control of the Governor General in Council, extend the operation of such rules to any cantonment the boundary of which is not more than six miles distant from the boundary of such municipality.

What rules under sections 3 and 4 may provide for.

6. The rules to be made under section 3 or section 4 may, among other matters,—

(*a*) direct that no hackney-carriage, or no hackney-carriage of a particular description, shall be let to hire, or taken to ply, or offered for hire, except under a license granted in that behalf;

(*b*) direct that no person shall act as driver of a hackney-carriage except under a license granted in that behalf;

(*c*) provide for the issue of the licenses referred to in clauses (*a*) and (*b*), prescribe the conditions (if any) on which such licenses shall be granted, and fix the fees (if any) to be paid therefor;

(*d*) regulate the description of animals, harness and other things to be used with licensed carriages, and the condition in which such carriages, and the animals, harness and other things used therewith, shall be kept, and the lights (if any) to be carried after sunset and before sunrise;

(*e*) provide for the inspection of the premises on which any such carriages, animals, harness and other things are kept;

(*f*) fix the time for which such licenses shall continue in force, and the events (if any) upon which within such time they shall be subject to revocation or suspension;

(*g*) provide for the numbering of such carriages;

(*h*) determine the times at which, and the circumstances under which, any person keeping a hackney-carriage shall be bound to let or refuse to let such carriage to any person requiring the same;

(*i*) appoint places as stands for hackney-carriages and prohibit such carriages waiting for hire except at such places;

(*j*) limit the rates or fares, as well for time as distance, which may be demanded for the hire of any hackney-carriage; and prescribe the minimum speed at which such carriages when hired by time shall be driven;

(*k*) limit the number of persons, and the weight of property, which may be conveyed by any such carriage;

(*l*) require the owner or person in charge of any such carriage to keep a printed list of fares in English and such other language as may be

prescribed affixed inside such carriage in such place as may be determined by the rules, and prohibit the destruction or defacement of such list;

(*m*) require drivers to wear a numbered badge or ticket, and to produce their licenses when required by a Magistrate or other person authorized by the rules in this behalf, and prohibit the transfer or lending of such licenses and badges; and

(*n*) provide for the deposit of property found in such carriages, and the payment of a fee by the owner of such property on the delivery thereof to him.

Penalty for breach of rules.

7. Any person breaking any rule made under this Act shall be punished with fine which may extend to fifty rupees.

Disposal of fees and payment of expenses.

8. The amount of any fees received and the amount of any expenses incurred in giving effect to this Act shall in any municipality be credited and debited respectively to the municipal fund, and, in any cantonment where there is a cantonment-fund, to such fund.

Power of Magistrate to decide disputes regarding fares.

9. If any dispute arises between the hirer of any hackney-carriage and the owner or driver of such carriage as to the amount of the fare payable by such hirer under any rule made under this Act, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined by any Magistrate or bench of Magistrates within the local limits of whose jurisdiction such dispute has arisen; and such Magistrate or bench may, besides determining the amount so in dispute, direct that either party shall pay to the other such sum as compensation for loss of time as such Magistrate or bench thinks fit.

Any sum determined to be due or directed to be paid under this section shall be recoverable as if it were a fine.*

The decision of any Magistrate or bench in any case under this section shall be final.

When any such case is heard by a bench, any difference of opinion arising between the members of such bench shall be settled in the same manner as differences of opinion arising between such members in the trial of criminal cases.

In case of dispute, hirer may require driver to take him to Court.

10. If at the time any dispute mentioned in section 9 arises, any Magistrate or bench of Magistrates having jurisdiction in respect of such dispute is sitting within the local limits to which the rules apply, the hirer of the carriage may require the driver thereof to take him in the same to the Court

* See Act I of 1868, s. 5

of such Magistrate or bench for the purpose of making an application under that section.

Any driver neglecting or refusing to comply with such requisition shall be punished with imprisonment for a term which may extend to one month, or with fine not exceeding fifty rupees, or with both.

ACT No. XX OF 1879.[a]

Received the Governor General's assent on the 14th November, 1879.

An Act to provide for the better prevention of Glanders and Farcy among horses.

Preamble. WHEREAS it is expedient to provide for the better prevention of glanders and farcy among horses; It is hereby enacted as follows:—

Short title. 1. This Act may be called the Glanders and Farcy Act, 1879:

Local extent. It extends to the whole of British India, except the territories respectively administered by the Governor of Fort St. George in Council,[b] and the Lieutenant-Governor of Bengal;

Commencement. and it shall come into force at once.

Interpretation-clause. 2. In this Act, unless there is something repugnant in the subject or context,—

"Horse." "horse" includes also ponies, asses, mules and jennets:

"Diseased." "diseased" means affected with glanders or farcy.

Local Government may apply the Act. 3. The Local Government may, by notification in the official Gazette, apply this Act, or any provision of this Act, to any local area, to be specified in such notification, within the territories administered by it, and may in like manner amend or cancel any such notification.

Local Government to appoint Inspectors. 4. When this Act has been so applied to any local area, the Local Government may, by notification in the official Gazette, appoint either by name or by virtue of their office such persons as it thinks fit to be Inspectors under this Act and to exercise and perform, within the whole of such local area or such portions thereof as it may from time to time prescribe, the powers conferred and the duties imposed by this Act on such officers.

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[a] This Act has been extended, under s. 5 of the Scheduled Districts Act, 1874, to Upper Burma (except the Shan States)—see Notification in Appendix, Pt. I, *infra*, p. 491.

[b] The words "the Governor of Bombay in Council" in s. 1, repealed by Act XXIV of 1886 s. 1, have here been omitted.

Every person so appointed may be suspended or dismissed by the Local Government which appointed him.

Every person so appointed shall be deemed a public servant within the meaning of the Indian Penal Code. XLV of 1860.

Inspector's power to seize horse.

5. Within the local limits for which he is so appointed, any such Inspector may seize any horse which he has reason to believe, from personal knowledge or from information given by any person and taken down in writing, is diseased.

Power of entry and search given to Inspectors.

6. For the purpose of making such seizure, such Inspector may, subject to such rules as the Local Government may from time to time make in this behalf, enter and search any field, building or other place where he has reason to believe that any such horse is to be found.

Horse to be examined by Veterinary Surgeon.

7. On any such seizure the Inspector shall cause the horse so seized to be examined as soon as possible by such Veterinary Surgeon as the Local Government may from time to time appoint in this behalf.

Horse to be destroyed if found diseased; otherwise restored.

8. If such Surgeon certifies in writing that such horse is diseased, the Inspector shall cause the same to be immediately destroyed; but, if such Surgeon does not so certify, the Inspector shall at once deliver the same to the person entitled to the possession thereof.

When horse diseased, place where it has been to be disinfected, &c.

9. When any diseased horse has been in any building, shed or other enclosed place, or in any open lines, the Inspector may issue a notice to the owner of such building, shed, place or lines, or the person in charge thereof, directing him to have the same disinfected, and the internal fittings thereof, or such other things found therein or near thereto as the Local Government may from time to time by rule prescribe, destroyed.

On the failure or neglect of such owner or other person to comply with such notice within a reasonable time, the Inspector shall cause such building, shed, place or lines to be disinfected, and such fittings or other things to be destroyed, and the expense (if any) thereby incurred may be recovered from such owner or other person as if it were a fine.[a]

Owner or person in charge of diseased horse to give notice.

10. The owner or any person in charge of a diseased horse shall give immediate information of such horse being diseased to the Inspector or to some officer of police.

Prohibition

11. No person in charge of any horse which has been in the same field,

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[a] See Act I of 1868, s. 5.

against removal, without license, of horse which has been with diseased horse.

building or place or in contact with a diseased horse shall move such horse, except in good faith for the purpose of preventing infection or under a license to be granted by the Inspector and subject to the conditions of such license.

Vexatious entries, searches and seizures.

12. Any Inspector who, without reasonable ground of suspicion, enters or searches any field, building or other place, or vexatiously and unnecessarily seizes or detains any horse on the pretence that it is diseased, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

No prosecution under this section shall be instituted after the expiry of three months from the date on which the offence has been committed.

Penalty for refusing to comply with notice under section 9, or moving horse contrary to section 11.

13. Any person who refuses or neglects to comply with any notice issued by the Inspector under section 9, or who moves any horse in contravention of section 11, shall be punished with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Power to make rules.

14. The Local Government may from time to time make rules, consistent with this Act,—

(*a*) for regulating entries and searches by Inspectors under this Act;

(*b*) for regulating the destruction of horses certified under section 8 to be diseased, and the disposal of the carcases of such horses;

(*c*) for regulating the disinfecting of buildings and places in which diseased horses have been, and for prescribing what things found therein or near thereto shall be destroyed;

(*d*) for regulating the grant of licenses under section 11, and the conditions on which such licenses shall be granted; and

(*e*) generally for carrying out the purposes of this Act.

All such rules shall be published in the official Gazette, and shall thereupon have the force of law.

Any person breaking a rule made under this section shall be punished with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Validation of destruction of diseased horses previous to passing of this Act.

15. All diseased horses destroyed under the orders of the Governor General in Council or the Local Government in the districts of Ráwalpindi and Pesháwar previous to the passing of this Act shall be deemed to have been destroyed in accordance with law.

THE BURMA BOUNDARIES ACT, 1880.

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ACT No. V OF 1880.[a]

Received the Governor General's assent on the 20th February, 1880.

An Act to provide for the demarcation of land and for the establishment and maintenance of boundary-marks in Lower Burma.

Preamble. WHEREAS it is expedient to provide for the demarcation of land and for the establishment and maintenance of boundary-marks in Lower Burma; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called the Burma Boundaries Act, 1880:

[a] This Act has been extended, under s. 5 of the Scheduled Districts Act, 1874, to the Town of Mandalay and to Upper Burma (except the Town of Mandalay and the Shan States)—see Notifications in Appendix, Pt. I, *infra*, pp. 491 and 492, respectively.

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It extends to the territories[a] for the time being administered by the Chief Commissioner of Lower Burma :[a] Local extent.

and it shall come into force at once. Commencement.

2. The Local Government may from time to time appoint persons, by name or by virtue of their office, to be Demarcation-officers and Boundary-officers, and may suspend or remove any person so appointed. Power to appoint Demarcation-officers and Boundary-officers ; functions of such officers.

Every person so appointed shall, subject to the control of the Local Government and of any superior officer appointed by it in this behalf, exercise and perform, within such local limits as the Local Government may from time to time direct, the powers conferred, and the duties imposed, by this Act or the rules made hereunder on such officers respectively.

CHAPTER II.

Demarcation of Boundaries.

A.—Proceedings of the Demarcation-officers.[b]

3. The Local Government may, whenever it thinks fit, by a notification in the official Gazette, direct that the boundaries of any land shall be demarcated by a Demarcation-officer. Power to direct demarcation of boundaries.

4. On the publication of any such notification, a Demarcation-officer appointed by the Local Government in this behalf may enter upon the land specified therein, and make all enquiries and do all other things necessary for demarcating the boundaries of the said land. Power to enter on land to effect demarcation.

5. The Demarcation-officer shall cause to be published a general notice addressed to all persons owning, occupying or otherwise interested in the said land and the land marching therewith, and to all persons employed on or connected with the management of such land, calling upon them to attend, either personally or by agent, before him, at such places and at such times as may be stated in such notice, for the purpose of pointing out the boundaries and of rendering such aid as may be necessary in setting up or repairing the boundary-marks, and of affording such other assistance and information as may be needed for the purposes of the demarcation. Publication of general notice.

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[a] The territories are now known as Lower Burma—see Act XX of 1886, s. 2 (*1*) (*b*), *infra*, p. 364, and the Chief Commissioner is styled Chief Commissioner of Burma—see Proclamation, dated 25th September, 1886, Gazette of India, 25th *idem*, Pt. I, p. 539.

[b] For power to invest any Forest-officer in Lower Burma and in Upper Burma with the powers of a Demarcation-officer under this Act, see Act XIX of 1881, s. 70 (*a*), and Reg. VI of 1887, s. 68 (*1*) (*a*), *infra*, pp. 179 and 194 and 444, respectively.

The persons to whom such notice is addressed shall not be legally bound to attend.

Power to issue special notice to procure attendance.

6. The Demarcation-officer may also cause a special notice to be served on any of the persons mentioned in section 5 requiring such person to attend, personally or by agent, before him on or before a specified date, at such places and for such of the purposes aforesaid as may be stated in such notice; and every person upon whom such special notice may be served shall be legally bound to attend as required by the notice, and, so far as he may be able, to do any of the things mentioned therein.

Clearing of boundary-lines.

7. The Demarcation-officer may cause a special notice to be served on any owner or occupier of the said land requiring such owner or occupier to clear any boundary or other line which it may be necessary to clear for the purposes of the demarcation of such land, by cutting down and removing any trees, jungle, fences or standing crops, or to provide labour by furnishing flag-holders, or otherwise to assist in the demarcation of such land; and, if it is necessary to employ hired labour for these or other similar objects incidental to the demarcation, the Demarcation-officer may assess and recover from such owner or occupier the cost of such labour.

Compensation for injury done by clearance.

8. If any demand for compensation is made in respect of the clearance of any line in accordance with a requisition under section 7, the Demarcation-officer shall determine and record the value of any trees, jungle, fences or standing crops which may have been cut down or removed, and shall pay or tender to the owners thereof the amount of compensation which in his opinion should be allowed therefor.

Any dispute arising concerning the sufficiency of the amount so paid or tendered shall be determined by the Deputy Commissioner upon application made to him for that purpose by either of the disputing parties.

Power to summon person to give information or produce document.

9. The Demarcation-officer may issue a special notice calling upon any person who he has reason to believe can give any information respecting the boundaries of the land, or in whose possession or power any document relating to such boundaries is alleged to be, to attend before him and give such information or produce such document, on a date and at a place to be mentioned in the notice.

Every person on whom any such notice is served shall be legally bound to attend and to give such information or to produce such document as required by the notice.

Demarcation-officer to mark out boundaries.

10. The Demarcation-officer shall, after making such inquiry as he thinks fit, mark out the boundaries of the land, and may cause boundary-marks, of such materials, in such number, and in such manner, as he thinks fit, to be

erected by the owners or occupiers of the land, or may erect such marks and charge the cost of such erection to such owners or occupiers, and shall forward a report of his proceedings to the Boundary-officer: and submit report to Boundary-officer.

Provided that, at any time before forwarding his report to the Boundary-officer, the Demarcation-officer may, for any sufficient reason to be stated in such report, alter any boundary marked out by him. When Demarcation-officers may alter demarcation.

B.—Proceedings of Boundary-officers.

11. The Boundary-officer shall, on receipt of the report of the Demarcation-officer, cause a general notice to be published, informing all persons concerned that such report is open to inspection, and requiring any person who may have any objections to make thereto to submit a written statement of such objections within one month from the date of the publication of such notice. General notice to persons affected.

Whenever the Boundary-officer has reason to believe that any person interested is likely to object to any boundary as laid down in such report, he shall cause a special notice to be served on such person requiring him to submit, within the said period of one month, a written statement of his objection. Special notice to persons likely to object.

No person shall be entitled as of right to submit any statement of objection after the expiration of the said period of one month; but it shall be in the discretion of the Boundary-officer to admit any such statement after the expiration of such period and before the order next hereinafter mentioned has been made. Statements of objections.

12. When the said period of one month has expired and the objections (if any) made within it or subsequently admitted by the Boundary-officer have been inquired into by him, and any further inquiry which he may deem necessary has been made by him, the Boundary-officer shall pass such order as he thinks fit, confirming or modifying the boundaries as determined by the Demarcation-officer. Order of Boundary-officer.

If any objection seems to him not to be well-founded, the Boundary-officer may direct that all expenses of the inquiry which have arisen from such objection shall be recovered from the person who made the same.

13. When any person, within sixty days from the date of the order passed under section 12, makes any objection to the correctness of the demarcation-proceedings, the Boundary-officer may, in his discretion, either refuse to inquire into such objection, or may require the person making the same to deposit, within a reasonable time, the estimated costs of any further inquiry which it may be necessary to make in respect thereof. Objections subsequently made how dealt with.

14. If the costs of such further inquiry are deposited, the Boundary-officer Boundary-

Officer to make further inquiry.

shall, after making such inquiry, pass an order rejecting such objection or admitting the same and amending the order passed under section 12.

If, on such inquiry, the objection seems to the Boundary-officer not to be well-founded, he may pass such order as he thinks fit in respect of the recovery, from the person making the objection, of any sum expended on the inquiry in excess of the sum deposited, and of any necessary expenses incurred by any other person on account of such inquiry.

No person making an objection under section 13 shall, unless the Boundary-officer specially so directs, recover any portion of the amount deposited by him under section 13.

Power to enforce attendance of witnesses, &c.

15. For the purposes of any inquiry under this Act, the Boundary-officer shall, in addition to the powers conferred specially by this Act, have all the powers of a Demarcation-officer and also power to summon and enforce the attendance of witnesses and compel the production of documents, so far as may be, by the same means and in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure.[a] XIV of 1882.

Power to refer dispute to arbitration.

16. The Boundary-officer, whenever he thinks fit, may, with the consent of the parties concerned, refer to arbitration any dispute as to a boundary.

The procedure laid down in Chapter XXXVII of the Code of Civil Procedure[a] shall apply (so far as may be) to such references.

Effect of orders of Boundary-officer.

17. The order passed by the Boundary-officer under section 12, or when such order is amended under section 14, such amended order, shall, unless and until it be reversed or modified in manner hereinafter provided, be conclusive.

C.—Appeals from Orders of Boundary-officers.

Orders appealable to Commissioner.

18. An appeal shall lie to the Commissioner of the division from every order passed by a Boundary-officer under section 12, section 13 or section 14.

Decision when final.

19. If the Commissioner confirms the order of the Boundary-officer on a matter of fact, such decision shall be final and conclusive.

Second appeal when allowed.

In all other cases in which the Commissioner confirms the order of the Boundary-officer, and in all cases in which the Commissioner reverses or modifies the order of the Boundary-officer, an appeal shall lie to the Judicial Commissioner, or, when the land comprised in the order is situated within the local limits of the ordinary civil jurisdiction of the Recorder of Rangoon, to such Recorder.

Period of limitation.

20. The period of limitation for an appeal under section 18 or section 19

[a] Now Act XIV of 1882—see s. 3, *ibid.* Chapter XXXVII of the old Code corresponds to the same Chapter in the [redacted] Code.

shall run from the date of the order or decision appealed against, and shall be as follows, that is to say :—

(*a*) in the case of an appeal under section 18—sixty days;

(*b*) in the case of an appeal under section 19—ninety days.

In computing such periods of sixty and ninety days, and in all respects not herein specified, the limitation of such appeals shall be governed by the provisions of the Indian Limitation Act, 1877.

XV of 1877

Powers of Commissioner, &c.

21. The Commissioner, the Judicial Commissioner and the Recorder of Rangoon shall in hearing and determining appeals presented under this Act have, as nearly as may be, the same powers as they have in the case of appeals from decrees and orders in civil suits.

D.—Boundary-marks.

When permanent boundary-marks are to be erected.

22. Whenever an order determining a boundary has become final, the Boundary-officer shall, unless permanent boundary-marks of a suitable description have already been erected along such boundary, cause to be erected permanent boundary-marks, of such materials, in such number, and in such manner, as he may consider sufficient to distinguish such boundary.

An order determining a boundary becomes final for the purposes of this section when it is not open to appeal.

Apportionment of expense of erection of marks.

23. All expenses incurred by the Boundary-officer in erecting such boundary-marks for any land shall be apportioned amongst the owners or occupiers of such land, in such proportions as the Boundary-officer may think fit.

Notice to owners to pay share of expense.

24. When the expenses have been apportioned among such owners or occupiers, the Boundary-officer shall cause a notice to be served on each of them, specifying the amount payable by him in respect of such expenses, and requiring him to pay such amount to the Boundary-officer within one month from the service of such notice.

Power to place marks under charge of owners and occupiers.

25. The Boundary-officer may further cause a notice to be served on any owner or occupier, placing under his charge any boundary-marks erected on the boundary of his land, whether by order of such officer or otherwise.

Duty to preserve boundary-marks.

Every owner or occupier shall preserve such boundary-marks as may be placed under his charge under this section, and shall give immediate notice to the nearest Magistrate or the officer in charge of the nearest police-station if any such marks are injured, destroyed or removed, or require repairs.

Duty to give notice of any injury occurring to them.

Power to re-erect and repair boundary-marks.

26. Whenever a Magistrate of the first or second class becomes aware that any mark erected under this Act within the local limits of his jurisdiction has been injured, destroyed or removed, or requires repairs, such Magistrate may cause such mark to be re-erected, restored or repaired, and may recover any

expenses incurred in respect of such re-erection, restoration or repair from the owner or occupier who is bound under section 25 to preserve such mark.

Duties of village-officers.

27. It shall be the duty of every village-headman and thugyi—

(*a*) to prevent the destruction, injury or alteration of any boundary-mark within the local limits of his jurisdiction;

(*b*) whenever he becomes aware that any such mark has been destroyed, injured or altered, to report immediately to the officer in charge of the nearest police-station or to the nearest Magistrate such destruction, injury or alteration.

CHAPTER III.

MISCELLANEOUS.

Survey-officer.

28. When any officer is appointed by the Government to make a survey of any land, the Chief Commissioner may invest such officer, for the purposes of such survey, with all or any of the powers conferred on Demarcation-officers by sections 4 to 9 (both inclusive), and also with power to cause any boundary or other marks to be erected by the owners or occupiers of any land, or to erect such marks and to charge the cost of such erection to such owners or occupiers.

Power to perform order under Act at expense of person disobeying it.

29. If any owner or occupier of any land, or any other person, being ordered in accordance with the provisions herein contained to perform any act, fails to perform such act within a reasonable time, the officer who gave the order may, after giving notice to such owner, occupier or other person of his intention so to do, cause the act to be performed; and the expenses incurred in such performance shall be payable by such owner, occupier or other person.

Penalty for refusing or neglecting to comply with orders or notice.

30. Whoever, being legally bound to comply with any lawful order under this Act, or with the requisition contained in any special notice served upon him under this Act, refuses or neglects to comply therewith, shall be punished with fine which may extend to fifty rupees.

Recovery of amounts due under Act.

31. Every amount due under the provisions of this Act may be recovered as if the same were an arrear of land-revenue.

Power to make subsidiary rules.

32. The Chief Commissioner may from time to time make rules consistent with this Act—

(*a*) for the collection and record of any information in respect of any land;

(*b*) prescribing and limiting the powers and duties of officers conducting proceedings under this Act;

(*c*) regulating the delegation by such officers to subordinate officers of the powers and duties conferred and imposed on them respectively by this Act or the rules made hereunder;

(*d*) for the proper performance of all things to be done, and for the regulation of all proceedings to be taken, under this Act;

(*e*) for the publication, issue and service of all notices, whether general or special, to be published, issued or served under this Act; and

(*f*) for carrying out generally the purposes of this Act.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law. Mode of publication.

THE EXCISE ACT, 1881.

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ACT No. XXII OF 1881.[a]

Received the Governor General's assent on the 26th October, 1881.

An Act to [c]amend the law relating to the Excise-revenue in Northern India, Lower Burma and Coorg.

Preamble. WHEREAS it is expedient to amend the law in force in Northern India, Burma[b] and Coorg relating to the production, sale, possession and import of spirit, fermented liquors and intoxicating drugs, and the collection of the revenue derived therefrom; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called the Excise Act, 1881:

Local extent. It extends to the territories[b] administered respectively by the Lieutenant-Governors of the North-Western Provinces and the Punjab and the Chief Commissioners of Oudh, the Central Provinces, Lower Burma,[b] Coorg, and Ajmere and Merwára; and

Commencement. It shall come into force on the first day of January, 1882.

Repeal of Act X of 1871. 2. On and from that day the Excise Act, 1871, shall be repealed, but all rules made, powers conferred and licenses and farms granted under that Act and in force on the same day shall be deemed to have been respectively made, conferred and granted under this Act. X of 1871.

Interpretation-clause. 3. In this Act—

"Chief revenue-authority": (*a*) "Chief Revenue-authority" means—

in the territories administered by the Lieutenant-Governor of the North-Western Provinces—the Board of Revenue;

[c]in the territories respectively administered by the Lieutenant-Governor of the Punjab and the Chief Commissioner of Burma[c]—the Financial Commissioner; and

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[a] This Act, as amended by Acts VI of 1885, IX of 1885, s. 2, and II of 1887, ss. 5 and 6, has been extended, under s. 5 of the Scheduled Districts Act, 1874, to Upper Burma (except the Shan States)—see Notification in Appendix, Pt. I, *infra*, p. 492.

For rules for the regulation of excise in Upper Burma (except the Shan States)—see Burma Gazette, 21st July, 1888, Pt I, p. 292.

[b] The territories are now known as Lower Burma—see Act XX of 1886, s. 2 (*l*) (*b*), *infra*, p 364, and the Chief Commissioner is styled Chief Commissioner of Burma—see Proclamation, dated 25th September, 1886, Gazette of India, 25th *idem*, Pt. I, p. 839.

[c-c] These words in s. 3 (*a*) have been substituted by Act XVIII of 1888, s. 7—see *infra*, p. 76.

in the territories respectively administered by the Chief Commissioners of Oudh, the Central Provinces,[a] Coorg, and Ajmere and Merwára—the Chief Commissioner:

(*b*) "Collector" includes any revenue-officer in independent charge of a district and any officer appointed by the Local Government to discharge, throughout any specified local area, the functions of a Collector under this Act: "Collector":

"Commissioner of Revenue" means any officer appointed by the Local Government to discharge, throughout any specified local area, the functions of a Commissioner of Revenue under this Act: "Commissioner of revenue":

(*c*) "Magistrate" means any Magistrate exercising powers not less than those of a Magistrate of the second class, or any Magistrate of the third class specially authorized in this behalf by the Magistrate of the district[b]: "Magistrate":

(*d*) "place" includes also house, boat and raft: "Place":

(*e*) "tári" means the sap of any kind of palmtree: "Tári":

(*f*) "fermented liquor" means malt liquor, wine, pachwai and fermented tári, and, in any provision of this Act, shall, if the Local Government, subject to the control of the Governor General in Council, so directs, include any other fermented liquor, and also tári though it may not have perceptibly begun to ferment: "Fermented liquor".

(*g*) "spirit" means any liquor containing alcohol obtained by distillation: "Spirit":

(*h*) the expression "intoxicating drugs" means gánja, bhang, charas, and every preparation and admixture of the same: "Intoxicating drugs":

(*i*) "tola" means a weight of one hundred and eighty grains Troy: "Tola":

(*j*) "ser" means a weight of eighty tolas: "Ser":

(*k*) the articles next hereinafter mentioned shall be deemed to be sold retail within the meaning of this Act when sold in quantities not exceeding those next hereinafter specified in respect of them, that is to say,— "Retail":

foreign spirit or foreign fermented liquor, two imperial gallons or twelve reputed quart bottles;

country spirit, one ser, and in Burma[c] one reputed quart bottle;

country fermented liquor, four sers, and in Burma[c] four reputed quart bottles;

bhang, or any preparation or admixture thereof, one quarter of a ser;

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[a] The words "British Burma" in s. 3 (*a*), repealed by Act XVIII of 1888, s. 7, have here been omitted.

[b] Now the District Magistrate—see Act X of 1882, s. 3

[c] The word "Burma" has here been substituted for "British Burma" by Act XVIII of 1888, s. 7—see *infra*, p. 76.

ganja or charas, or any preparation or admixture thereof, five tolas:

"Wholesale." If sold in larger quantities they shall be deemed to be sold wholesale.

"Country spirit": In any case in which doubt arises the Local Government may decide what for the purposes of this Act shall be deemed to be "country spirit," "country fermented liquor," "foreign spirit," and "foreign fermented liquor"; and such decision shall be binding on the Courts.

"Foreign spirit."

Saving of Acts XVI of 1863 and III of 1880.

4. Nothing herein contained shall affect Act No. XVI of 1863 (*to make special provision for the levy of the Excise-duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry*) or the Cantonments Act, 1880. III of 1880.

CHAPTER II.

PRODUCTION OF SPIRIT, FERMENTED LIQUOR AND INTOXICATING DRUGS.

Manufacture of spirit and liquor without license prohibited.

5. No person shall construct, work or possess a distillery, still or brewery, or manufacture fermented liquor, in any district except under a license granted by the Collector or by a person authorised by the Collector to grant such license, and in accordance with the conditions (if any) contained therein.

Power to establish distilleries for country spirit.

6. The Collector may, with the previous sanction of the Chief Revenue-authority, from time to time,—

(*a*) establish at any place within his district a distillery in which country spirit may be made, and discontinue any distillery so established;

(*b*) fix limits within his district within which no such spirit, unless made in the said distillery, shall be introduced without a pass from him.

Duty on spirit.

7. No spirit shall be removed from any distillery licensed under section 5 or established under section 6, until—

(*a*)[a] such duty as the Local Government may from time to time fix in respect of such spirit has been paid, or

(*b*) a bond for such duty has been executed, or

(*c*) a duty in respect of the materials used in making such spirit has been levied at such rates and in such manner as the Local Government, with the previous sanction of the Governor General in Council, may from time to time direct.

Power to make rules as to distilleries and breweries licensed under section 5;

8. The Chief Revenue-authority may from time to time make rules as to—

(*a*) the granting of licenses for distilleries, stills and breweries under section 5;

[a] Cl. (*a*) of s. 7 has been substituted by Act IX of 1885, s. 2.
The duty fixed before the 29th May, 1885, under s. 6 of the Indian Tariff Act, XI of 1882, is to be deemed to be the duty fixed by the Local Government under s. 7—see Act IX of 1885, s. 4.

(*b*) the notices to be given by the proprietor of a licensed distillery when he commences and discontinues work;

(*c*) the size and description of the stills in such distillery;

(*d*) the storing and passing out of the spirit made in such distillery, and the contents of the passes;

(*e*) the inspection and examination of the distillery and warehouses, and of the spirit made and stored therein;

(*f*) the furnishing of statements of the spirit, and of the stills, coppers, casks and other utensils, in the distillery.

9. The Chief Revenue-authority may from time to time make rules as to— and for distilleries established under section 6.

(*a*) the management of distilleries established under section 6, and in particular as to the conditions on which any materials to be used in making spirit may be brought into such distillery;

(*b*) the conditions on which spirit may be made in such distilleries; and

(*c*) the storing and passing out of the spirit so made, and the contents of the passes.

10. Except in the territories respectively administered by the Chief Commissioners of Oudh, the Central Provinces,[a] Coorg, and Ajmere and Merwára, the sanction of the Local Government is required to validate rules under sections 8 and 9. Sanction to rules under sections 8 and 9.

11. In Burma[b], the cultivation of hemp and the preparation of intoxicating drugs therefrom are prohibited except under, and in accordance with, a license granted by such officer as the Chief Commissioner may from time to time appoint in this behalf. Production of intoxicating drugs.

In the other territories to which this Act extends, the Chief Revenue-authority may from time to time make such rules to restrict and regulate the cultivation of hemp and the preparation of intoxicating drugs therefrom as it may deem necessary to secure the duty leviable in respect of those drugs.

CHAPTER III.

Sale of Spirit, Fermented Liquor and Intoxicating Drugs.

12. No spirit, fermented liquor or intoxicating drug shall be sold except Spirit, fermented liquor

[a] The words "British Burma" in s. 10, repealed by Act XVIII of 1888, s. 7, have here been omitted.

[b] The word "Burma" in s. 11 has been substituted for "British Burma" by Act XVIII of 1888, s. 7—see *infra*, p. 76.

and drugs not to be sold without license.

under, and in accordance with the terms of, a license granted under the provisions hereinafter contained:

Proviso.

Provided as follows:—

(*a*) nothing in this section applies to the sale of any foreign spirit or foreign fermented liquor legally procured by any person for his private use and sold by him or by auction on his behalf or on behalf of his representatives in interest upon his quitting a station or after his decease;

(*b*) any officer empowered in this behalf by the Chief Revenue-authority may grant to travelling merchants, subject to such rules and restrictions as such authority may from time to time prescribe, a general license authorizing them to sell foreign spirit and foreign fermented liquor wholesale in any district which they may visit in the course of their travels, without taking out a fresh license for that district;

(*c*) any person making or producing country spirit or country fermented liquor, in accordance with the provisions of this Act, may, subject to any rules from time to time made by the Local Government in this behalf, sell such spirit or liquor to any person licensed under this Act as a retail vendor of such spirit or liquor;

(*d*) any cultivator of the hemp plant may sell any intoxicating drug prepared from his plants to any person licensed under this Act to sell the same, or to any person authorized to purchase the same by the Collector's order in writing.

Licenses how granted.

13. Subject to the rules made by the Chief Controlling Revenue-authority under the power hereinafter conferred, the Collector may grant licenses for the sale of foreign spirit and foreign fermented liquor, wholesale or retail, and for the retail sale of country spirit or country fermented liquor, and (except in Burma[a]) of intoxicating drugs, within his district or any part thereof or at any place therein.

Licenses for the sale of country spirit and country fermented liquor and intoxicating drugs, wholesale, and licenses for the sale, in Burma,[a] of intoxicating drugs, retail, shall be granted only by such officer as the Local Government from time to time appoints in this behalf.

Power to cancel license for cause specified therein.

Any license granted under this section may be cancelled by the Collector for any cause specified therein.

[a] The word "Burma" in s. 13 has been substituted for "British Burma" by Act XVIII of 1888, s 7—see *infra*, p. 76.

Power to cancel license for other causes.

14. Whenever the Collector considers that the license of a vendor of country spirit, country fermented liquor or intoxicating drugs should be cancelled for any cause other than those specified in such license, he shall remit a sum equal to the amount of the license-fee for fifteen days, and shall either give fifteen days' previous notice of his intention to cancel the license, or shall, in addition to remitting such sum as aforesaid, make such compensation for default of notice as the Commissioner of Revenue or Chief Revenue-authority directs.

On the expiration of such notice or the payment of such additional compensation, the Collector may cancel the said license.

Surrender of retail license.

15. Any retail vendor licensed under this Act may surrender his license on the expiration of one month's previous notice given by him to the Collector of his intention to surrender the same, and on payment of such sum, not exceeding the amount of the license-fee for six months, as the Collector may fix in this behalf.

If the Collector is satisfied that there is a sufficient reason for surrendering a license, he may remit the sum so fixed.

Power to farm fees.

16. The Collector may, with the sanction of the Chief Revenue-authority, let in farm—

(*a*) the fees leviable in any district or part of a district on licenses for the retail sale of any description of country spirit or country fermented liquor or (except in Burma[a]) of intoxicating drugs:

(*b*) the right to manufacture, in any district or part of a district in which no distillery is established under section 6, country spirit of country fermented liquor.

Farmer to grant licenses.

When the fees so leviable or the right to manufacture such spirit or liquor, or both, are or is let in farm, the farmer may, subject to such reservations or restrictions as the Collector, with the sanction of the Chief Revenue-authority, may from time to time make or impose, grant licenses for the retail sale, or for the manufacture, or for both, as the case may be, of such articles within the local limits of his farm, and shall file in the Collector's office a list of all the licenses granted by him in such form and on such day or days in each year as the Chief Revenue-authority may from time to time prescribe in this behalf.

List of licenses granted by farmer to be filed.

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[a] The word "Burma" in s. 16 (*a*) has been substituted for "British Burma" by Act XVIII of 1898, s. 7—see *infra*, p. 76.

Farm may be cancelled.

17. The Collector may, with the sanction of the Chief Revenue-authority, cancel any farm granted under this Act.

Compensation to farmers in certain cases.

18. If any such farm be cancelled for any cause other than a breach on the part of the farmer of the conditions of the farm, or if any reservation or restriction with respect to the grant of licenses be made or imposed within the term of the farm, the farmer shall be entitled to receive for any loss which he sustains thereby such compensation as the Chief Revenue-authority may determine.

Recovery of arrears by farmers.

19. Every farmer under this Act may use the same means and processes for the recovery of any arrear of fees due to him from any retail vendor as may be lawfully used by the local landholders for the recovery of arrears of rent due to them from their tenants.

Power to regulate supply of tári and intoxicating drugs to licensed vendors.

20. The Chief Revenue-authority may from time to time make rules to regulate the mode in which tári shall be supplied to licensed vendors of the same, and the grant of licenses or passes to persons possessing or transporting intoxicating drugs for the supply of the licensed vendors of such drugs.

CHAPTER IV.

Possession of Spirit, Fermented Liquor and Intoxicating Drugs.

Possession of spirit, &c.

21. No person shall have in his possession any quantity of any spirit or fermented liquor larger than that specified in section 3, clause (*k*), in respect of such spirit or liquor, unless he is permitted to manufacture or sell the same, or he holds a pass therefor from the Collector or from some other officer empowered by the Local Government to grant such passes.

Provis

Nothing in this section extends to—

(*a*) any foreign spirit or foreign fermented liquor in the possession of any common carrier or warehouseman as such, or purchased by any person for his private use and not for sale, or

(*b*) tári intended to be used for the manufacture of gúr or molasses.

Possession of intoxicating drugs.

22. In Burma[a] no person shall have in his possession any intoxicating drugs except under, and in accordance with the terms of, a general exemption granted by the Chief Commissioner, or a license granted by such officer as the Chief Commissioner may from time to time appoint in this behalf.

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[a] The word "Burma" in s. 22 has been substituted for "British Burma" by Act XVIII of 1888, s. 7—see *infra*, p. 76.

BENGAL SECRETARIAT LIBRARY.

In the other territories to which this Act extends, no person shall have in his possession any larger quantity of such drugs than that specified in section 3, clause (*k*), in respect of such drugs, unless he is permitted to manufacture or sell the same.

CHAPTER V.

IMPORT OF SPIRIT AND FERMENTED LIQUOR.

Spirit and fermented liquor from foreign territory subject to duty.

23.[a] (*1*) A person shall not bring into any territory to which this Act extends any spirit manufactured at any place in India beyond the limits of British India, until he has obtained a pass therefor from such officer as the Local Government from time to time appoints in this behalf, and has paid in respect thereof—

(*a*) if the Local Government has fixed a duty under clause (*x*) of section 7 for like spirit manufactured in the part of the territory into which the spirit is to be brought, that duty, or,

(*b*) if the Local Government has not fixed a duty under that clause for like spirit manufactured in that part, a duty at such rate as the Local Government from time to time prescribes in this behalf, not exceeding the highest rate leviable, under the law for the time being in force, on spirit imported into British India by sea.

(*2*) The provisions of sub-section (*1*) with respect to spirit shall apply to fermented liquor also, with this modification that the duty to be paid in respect of the liquor shall be the duty leviable on like liquor under the Indian Tariff Act, 1882.

XI of 1882.

(*3*) If any question arises as to the duty to be charged on any spirit or fermented liquor under this section, the decision of the Local Government thereon shall be final.

CHAPTER VI.

OFFICERS AND THEIR POWERS.

Collectors may appoint Excise-officers.

24. The Collector may appoint persons, by name or by virtue of their office, to be officers for the collection of the excise-revenue and for the prevention of offences against this Act; and the officers so appointed shall, in addition to their ordinary designations (if any), be styled excise-officers.

Recovery of

25. The Collector may recover any amount due to the Government under

[a] S. 23 has been substituted by Act II of 1887, s. 5.

arrears of fees.

this Act or the rules made hereunder, by distress and sale of the moveable property of the person from whom such amount is due or of his surety, or by any other process for the time being in force for the recovery of arrears of land-revenue due from landholders or from farmers of land or their sureties.

Power of excise-officers to inspect shops

26. Any excise-officer may enter and inspect at any time by day or by night the shop or premises in which any manufacturer or vendor licensed under this Act carries on the manufacture of country-spirit, or the sale of country spirit, country fermented liquor or intoxicating drugs.

to arrest persons carrying spirit, &c., liable to confiscation;

27. Any excise-officer may stop and detain any person carrying any spirit, fermented liquor or intoxicating drug liable to confiscation under this Act;

and may seize such spirit, liquor or drug, together with any vessels, packages or coverings in which it is contained, and any animals and conveyances used in carrying it;

and may also arrest the person in whose possession such spirit, liquor or drug is found.

to arrest persons in possession of article liable to confiscation, and to seize article;

28. Any excise-officer in the receipt of a monthly salary of not less than ten rupees [a]or who receives an annual remuneration equivalent to such salary[a] may arrest any person having in his possession any article liable to confiscation under this Act, or engaged in the unlawful sale of any spirit, fermented liquor or intoxicating drug, and may seize such article, spirit, liquor or drug.

to search on information of illicit manufacture or possession.

29. Whenever any excise-officer in receipt of such monthly salary [a]or annual remuneration[a] as aforesaid has reason to believe, from information given by any person (which information shall be taken down in writing), that in any place spirit is unlawfully manufactured, or any article liable to confiscation under this Act is kept or concealed,

such officer may, after sunrise and before sunset (but always in the presence of an officer of police in the receipt of a monthly salary of not less than ten rupees [a]unless the excise-officer is himself such an officer of police[a], enter into such place,

and in case of resistance may break open any door and force and remove any other obstacle to such entry, and may seize and carry away such spirit or article,

and may also arrest the occupier of the place, with all other persons concerned in the manufacture of such spirit or in the keeping and concealing of such article.

Collector

30. The Collector may issue his warrant for the arrest of any person

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[a-a] These words in ss. 28 and 29 have been inserted by Act VI of 1885, ss. 1 and 2—see *infra*, p. 68.

whom he has reason to believe, either from information in writing, or from the proceedings in any other case under this Act or any other law, to be engaged in the unlawful sale of spirit or fermented liquor or intoxicating drugs, or to have in his possession any article liable to confiscation under this Act. may issue warrant of arrest in certain cases.

31. The Collector may issue his warrant for the search of any place in which he has reason to believe, either from information in writing, or from the proceedings in any other case under this Act or any other law, that spirit is unlawfully manufactured, or that any spirit, fermented liquor or intoxicating drug liable to confiscation under this Act is kept or concealed. Collector may issue search-warrant.

Such warrant may be executed by any excise-officer in the receipt of a monthly salary of not less than ten rupees, at the time and in the manner prescribed in section 29.

Whenever the Collector thinks that the search should be made after sunset and before sunrise on any particular day, he shall issue a warrant specially authorizing the search to be so made. Such warrant may be executed by any excise-officer as aforesaid in the manner prescribed in section 29, and shall cease to be in force at sunrise on the day next following. Special warrant authorizing search at night.

32. Whenever an excise-officer arrests any person, Excise-officer to report arrest, &c.;

or seizes any article liable to confiscation under this Act,

or enters any place for the purpose of searching for any such article,

he shall, within twenty-four hours thereafter, make a full report of all the particulars of such arrest, seizure or search, to his official superior, and, unless acting under the warrant of the Collector, shall take the person arrested, or the article seized, with all convenient despatch to the Magistrate for trial or adjudication. and to take person arrested to Magistrate.

33. Whenever any person is arrested or any article is seized under the warrant of a Collector issued under this Act, the officer making such arrest or seizure shall, within twenty-four hours thereafter, take the person arrested or the article seized to the Collector, and the Collector, after such enquiry as he thinks necessary, shall send such person or article to the nearest Magistrate, or shall order the immediate discharge of such person or the release of such article. Procedure after arrest or seizure.

34. All police-officers are required to aid the excise-officers in the due execution of this Act, upon request made by such officers. Police to aid excise-officers.

34A.[a] The Local Government may from time to time invest either by name or in virtue of his office— Power to invest police-officers with powers of excise-officers.

(*a*) any police-officer with the powers conferred on excise-officers by section 27 of this Act;

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[a] S. 34A has been inserted by Act VI of 1885, s. 3—see *infra*, p. 68. For Notification under this section concerning Upper Burma, see Burma Gazette, 20th October, 1888, Pt. I, p. 476.

(*b*) any police-officer in charge of a station or any police-officer of or above the grade of head-constable or sergeant with the powers conferred on excise-officers by sections 28 and 29 of this Act.

Every officer so invested shall, for all purposes connected with the exercise of these powers, be deemed to be an excise-officer within the meaning of this Act.

CHAPTER VII.

PENALTIES.

Penalty for illegally manufacturing spirit or liquor;

35. Whoever in contravention of section 5 constructs, works or possesses a distillery, still or brewery, or makes fermented liquor, shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both;

and all spirit and liquor made in contravention of section 5, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

for illegally introducing country spirit;

36. Any person who—

(*a*) without a special pass from the Collector, introduces, into the limits fixed for the consumption of spirit made at a distillery established under section 6, any country spirit manufactured at another place, or

for illegally removing spirit;

(*b*) in contravention of section 7, or of any rule made under section 8 or section 9, removes any spirit from a distillery, or

for illegally importing spirit;

(*c*) in contravention of section 23, brings any spirit [a]or fermented liquor[a] into any territory to which this Act extends,

shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both;

and the spirit [a]or fermented liquor,[a] together with the vessels containing the same, and any animals and conveyances used in carrying it, shall be liable to confiscation.

for contravening rules prescribed by Chief Revenue-authority;

37. Any person who, except in cases herein otherwise provided for, wilfully contravenes any rule made under section 8 or section 9 shall be punished with fine not exceeding one hundred rupees.

for illegally cultivating hemp and

38. Any person who, in contravention of section 11 or of any rule made thereunder, cultivates hemp or prepares any intoxicating drug, shall be

[a] These words in s. 36 have been inserted by Act II of 1887, s. 6.

punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. preparing drugs;

39. Any person who, in contravention of section 12, sells any spirit, fermented liquor or intoxicating drug shall be punished with imprisonment for a term which may extend to four months, or with a fine which may extend to one thousand rupees, or with both. for illicit sale of spirit, &c;

40. Any person licensed to sell retail spirit, or fermented liquor, or intoxicating drugs, who permits drunkenness, riot or gaming in his shop, or permits persons of notoriously bad character to meet or remain therein, or receives any wearing-apparel or other effects in barter for spirit, fermented liquor or intoxicating drugs, shall be punished with fine which may extend to two hundred rupees. for permitting drunkenness, &c., in shop;

41. Any person who possesses any spirit, liquor or drug, in contravention of section 21 or section 22, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; for illegal possession of spirit, liquor or drug;

and the spirit, liquor or drug, together with any vessels, packages and coverings in which it is contained, and any animals and conveyances used in carrying it, shall be liable to confiscation.

42. Any person holding a license under this Act and refusing to produce the same on the demand of any excise-officer, and any person who breaks any rule made under this Act or any condition of a license granted under this Act, for the breach of which rule or condition no other penalty is hereby provided, shall be punished with fine which may extend to fifty rupees. for refusal to produce license and for breach of rules and conditions;

43. Any owner or occupier of land, and any agent of any such owner or occupier, who authorizes or connives at the illegal manufacture of spirit or the sale of spirit or fermented liquor or intoxicating drugs, shall for every such offence be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both. for conniving at illicit manufacture or sale of spirit &c;

And any person invested with local jurisdiction who authorizes or connives at the illegal sale of any spirit, fermented liquor or intoxicating drug within the local limits of such jurisdiction shall be punished with fine which may extend to five hundred rupees.

44. Any police-officer who, without lawful excuse, neglects or refuses to aid an excise-officer as required by section 34, and any officer in charge of a police-station who, on application made by an excise-officer desiring to act under section 29, fails to attend a search himself, or to depute a subordinate officer of the required rank, shall be punished with fine which may extend to five hundred rupees. for police neglecting to aid excise-officers;

for vexatious search or seizure;

45. Any excise-officer who—

(*a*) without reasonable grounds of suspicion searches or causes to be searched any place, or

(*b*) vexatiously and unnecessarily seizes the moveable property of any person on the pretence of seizing or searching for any article liable to confiscation under this Act, or

(*c*) vexatiously and unnecessarily arrests any person, or

(*d*) commits any other excess not required for the execution of his duty,

shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

for delay in reporting arrest, &c., or in taking person arrested to Magistrate.

46. Any excise-officer who, in contravention of section 32 or section 33, neglects to report the particulars of an arrest, seizure or search, or delays taking to the Magistrate or Collector, as the case may be, any person arrested or any article seized under this Act, shall be punished with fine which may extend to two hundred rupees.

Prosecutions restricted.

47.[a] A Court shall not take cognizance of an offence punishable under any one of the following sections, namely, 35, 36, 37, 38, 39, 41, 42 and 43, except on the complaint or report of the Collector or an excise-officer; and a Court shall not take cognizance of any offence punishable under this Act unless the prosecution is instituted before the expiry of six months next after the commission of such offence.

Confinement in what jail.

48. Every person imprisoned for an offence under section 37 or section 42 shall be confined in the civil jail, and every person imprisoned for an offence under any other section shall be confined in the criminal jail.

Attempts and abetment.

49. Whoever attempts to commit any offence punishable under this Act or abets, within the meaning of the Indian Penal Code, the commission of any such offence, shall be punished with the punishment provided for such offence. XLV of 1860.

Disposal of fines, &c., as rewards.

50. Any Magistrate before whom any person is convicted of any offence under sections 35, 36, 37, 38, 39, 41 or 43 may award to any person who has contributed in any way to such conviction the whole or any portion of any fine imposed upon the offender and paid by him or realized from his property.

Magistrate to pass order of confiscation.

51. Any article liable to confiscation under this Act may, on the application of an excise-officer, be confiscated by the order of any Magistrate within the local limits of whose jurisdiction it is found.

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[a] S. 47 has been substituted by Act VI of 1895, s. 4—see *infra*, p. 69.

CHAPTER VIII.

Military Cantonments.

Manufacture and sale of spirits, &c., in military cantonments.

52. Within the limits of any military cantonment, and within such distance from those limits as the Local Government in any case prescribes, no licenses for the manufacture of spirit, or for the sale of spirit or fermented liquor, shall be granted, nor shall the fees leviable on licenses for the retail sale of such spirit or liquor, or the right to manufacture such spirit or liquor, be let in farm, unless with the knowledge and consent of the Commanding Officer;

and upon his requisition any such license which has been granted, either by the Collector or by a farmer, within such distance or limits shall be immediately cancelled.

Mode of making arrest or search in military cantonments.

53. In all other respects the provisions of this Act shall have effect within such limits or distance:

Provided that, whenever any arrest or search under this Act is to be made within the limits of any cantonment, the Collector or other officer authorized to make such arrest or search shall, whenever it may be practicable, give previous notice to the Commanding Officer, and in all other cases shall report the arrest or search to such Commanding Officer with as little delay as possible.

CHAPTER IX.

Miscellaneous.

Collector subject to control of Commissioner.

54. The Collector shall in all proceedings under this Act be subject to the control of the Commissioner of Revenue, and all orders passed by a Collector under this Act shall be appealable to such Commissioner in manner provided by the rules for the time being in force relating to appeals from the orders of Collectors.

The Chief Revenue-authority may revise any order passed by a Collector under this Act or by a Commissioner under this section.

Additional power to make rules.

55. The Chief Controlling Revenue-authority may from time to time make rules consistent with this Act—

(*a*) as to the period for which any license or farm under this Act shall be granted;

(*b*) as to the fee payable for any such license or farm, and the time or times at which it shall be payable;

(*c*) as to the security to be given by any licensee or farmer under this Act;

(*d*) as to the form of any license or farming lease and of the counterpart thereof (if any) to be taken from such licensee or farmer, and the conditions which may be inserted therein;

(*e*) as to the disposal of things confiscated under this Act;

(*f*) as to the duties of excise-officers; and

(*g*) to provide generally for carrying out the provisions of this Act.

Power to exempt articles and persons.

56. The Local Government may from time to time, by notification in the official Gazette, exempt within any specified local area any specified articles or any specified class of persons from all or any of the foregoing provisions of this Act, and may, by like notification, cancel any such exemption.

ACT No. XVI OF 1884.[a]

Received the Governor General's assent on the 3rd October, 1884.

An Act to provide more effectually for the suppression of certain forms of Gaming in Lower Burma.

WHEREAS it is expedient to provide more effectually for the suppression of certain forms of gaming in Lower Burma; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Burma Gaming Act, 1884.

(*2*) It extends to all the territories[b] for the time being under the administration of the Chief Commissioner of Lower Burma[b]; and

(*3*) It shall come into force at once.

Application of Act III of 1867 to game of *ti* and like games.

2. (*1*) Taking part in the game of "*ti*," or in any other game or pretended game of a like nature, shall be deemed gaming and playing within the meaning of Act III of 1867.[c]

(*2*) Every house, walled enclosure, room or place, whether public or private, where any such game or pretended game is carried on, shall, for the purposes of that Act, be deemed a common gaming-house, and all expressions referring to the use of any such house, enclosure, room or place as a common gaming-house shall include the use thereof for any such game or pretended game on a single occasion.

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[a] This Act has been declared in force in Upper Burma (except the Shan States)—see Act XX of 1886, Sch. II, Pt. I, *infra*, p. 370.

[b] The territories are now known as Lower Burma—see Act XX of 1886, s. 2 (*1*) (*b*), *infra*, p. 364, and the Chief Commissioner is styled Chief Commissioner of Burma—see Proclamation, dated 25th September, 1886, Gazette of India, 25th *idem*, Pt. I, p. 539.

[c] See *supra*, p. 7.

(*3*) All boxes, receptacles, lists, papers, tickets and forms used for the purpose of any such game or pretended game shall be deemed instruments of gaming within the meaning of the said Act.[a]

Penalty on conducting game of *ti* and like games.

3. Whoever conducts or assists in conducting the game of "*ti*," or any other game or pretended game of a like nature, as manager, stakeholder or *daing*, or who is, according to the rules of the game or pretended game, entitled to receive the surplus proceeds, or any part of the surplus proceeds, of the stakes, after deducting the amount payable to the successful player or players, or who promotes the game or pretended game by soliciting or collecting stakes or otherwise, shall be punished with imprisonment for a term which may, for a first offence, extend to six months, and, for a subsequent offence, to two years, or with fine, or with both.

Power to extend local application of Act III of 1867 within Burma.

4. (*1*) The Chief Commissioner may from time to time, by notification published in the official Gazette, extend to the whole or any part of the territories for the time being under his administration any such of the provisions of Act III of 1867[b] as do not for the time being extend thereto.

(*2*) From the date of any such extension so much of any rule having the force of law in operation in the territories to which the extension is made as is inconsistent with or repugnant to any provision so extended shall cease to have effect in those territories.

Power to invest 2nd class Magistrates with powers under Act III of 1867, section 5.

5. The Local Government may authorize any Magistrate of the second class to exercise the powers conferred by section 5 of Act III of 1867[b] on the Magistrate of the district.

Amendment of Act III of 1867 section 13.

6. In section 13 of Act III of 1867[c]—

(*a*) for the words "public street, place or thoroughfare," where they first occur, the words "street or thoroughfare or place to which the public have access" shall be substituted; and

(*b*) in the last clause, for the words "such public place" the words "such place" shall be substituted.

Power to arrest without warrant.

7. A police-officer may arrest without warrant any person soliciting or collecting stakes for the game of *ti*, or any other game or pretended game of a like nature, in any street or thoroughfare or place to which the public have access.

Power to demand security.

8. Whenever a District Magistrate, Subdivisional Magistrate or, when he is specially empowered in this behalf by the Local Government, a Magistrate of the first class receives information that any person within the local limits of his jurisdiction earns his livelihood, wholly or in part, by carrying on, or assisting

[a] *See supra*, p. 7. [b] *See supra*, p. 9. [c] *See supra*, p. 12.

in carrying on, the game of *ti*, or any other game or pretended game of a like nature, he may deal with such person as nearly as may be as if the information received about him were of the description mentioned in section 110 of the Code of Criminal Procedure; and for the purposes of any proceeding under this section the fact that a person earns his livelihood as aforesaid may be proved by evidence of general repute or otherwise. X of 1882.

ACT No. VI of 1885.[a]

Received the Governor General's assent on the 6th February, 1885.

An Act to amend Act XXII of 1881.

WHEREAS it is expedient to amend the Excise Act, 1881; It is hereby enacted as follows:— XXII of 1881.

Amendment of section 28 of said Act.

1. In section 28[b] of the said Act, after the words "ten rupees" the words "or who receives an annual remuneration equivalent to such salary" shall be inserted.

Amendment of section 29 of same Act.

2. In the first paragraph of section 29[b] of the same Act, after the word "salary" the words "or annual remuneration" shall be inserted; and in the second paragraph of the same section, after the word "rupees" the words "unless the excise-officer is himself such an officer of police" shall be inserted.

New section inserted after section 34 of same Act.

3. In the same Act, after section 34, the following section shall be inserted:—

"34A." (*See supra, p. 61.*)

New section substituted for section 47.

4. For section 47 of the same Act the following shall be substituted, namely:—(*See supra, p. 64.*)

ACT No. XV of 1887.

Received the Governor General's assent on the 29th July, 1887.

An Act for the Regulation of Military Police in Burma.

WHEREAS it is expedient to establish a military police-force in Lower Burma and to amalgamate that force with the military police-force of Upper Burma; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Act may be called the Burma Military Police Act, 1887.

(*2*) It extends to the whole of Burma (inclusive of Upper Burma), except the Shan States:[c] and

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[a] See footnote to Act XXII of 1881, *supra*, p. 52.

[b] See *supra*, p. 60.

[c] So much of this Act as was in force in any part of Upper Burma on the 4th March, 1889, has been extended to the Myelat, and the whole Act except s. 1, sub-ss. (2) and (3) and s. 2 has been extended to all Shan States—see Notifications in Appendix, Pt. III, *infra*, pp. 501 and 502.

(*3*) It shall come into force on such day as the Local Government may, by notification in the official Gazette, appoint in this behalf.[a]

II of 1887. **2.** The Upper Burma Military Police Regulation, 1887, is hereby repealed. Repeal.

3. In this Act, unless there is something repugnant in the subject or context,— Definitions.

(*1*) "military police-officer" means a person appointed to the Burma police-force under section 7 of Act V of 1861 who has signed the statement in the schedule to the Upper Burma Military Police Regulation, 1887, or to this Act, in accordance with the provisions of that Regulation or of this Act, as the case may be:

(*2*) "active service" means service at outposts or against hostile tribes or other persons in the field:

(*3*) "Deputy Commissioner" includes an Assistant Commissioner in charge of a subdivision:

(*4*) "Commandant" means a person appointed by the Local Government to be a Commandant of Military Police, and includes a District Superintendent of Police, and an Assistant District Superintendent of Police in charge of the police of a district or of a subdivision:

(*5*) "Second-in-command" means a person appointed by the Local Government to be a Second-in-command of Military Police, and includes an Assistant District Superintendent of Police not in charge of the police of a district or of a subdivision: and

(*6*) the expressions "reason to believe", "criminal force", "assault", "fraudulently" and "voluntarily causing hurt" have the meanings assigned

XLV of 1860. to them respectively in the Indian Penal Code.

4. (*1*) Before an officer appointed to the Burma police-force under section 7 of Act V of 1861 is appointed to be a military police-officer, the statement in the schedule shall be read to him in the presence of a Magistrate, Commandant or Second-in-command, and shall be signed by him in acknowledgment of its having been so read to him. Enrolment and discharge of military police-officers.

(*2*) Notwithstanding any notice given under section 9 of Act V of 1861, a military police-officer shall not be entitled to be discharged from the Burma police-force except in accordance with the terms of the statement which he has

II of 1887. signed under the Upper Burma Military Police Regulation, 1887, or under this Act, as the case may be.

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[a] The Act came into force on the 15th October, 1887—see Burma Gazette of same date, Pt. I, p. 398.

Classes and grades of military police-officers.

5. (*1*) There shall be six classes of military police-officers, namely:—

(i) inspectors,
(ii) subahdars,
(iii) jamadars,
(iv) havildars,
(v) naiks, and
(vi) constables,

and such grades in each class as the Local Government may direct.

(*2*) The expression "superior officer" in this Act includes—

(*a*) in relation to a constable, any constable of a higher grade and any naik, havildar, jamadar, subahdar or inspector;

(*b*) in relation to a naik, any naik of a higher grade and any havildar, jamadar, subahdar or inspector;

(*c*) in relation to a havildar, any havildar of a higher grade and any jamadar, subahdar or inspector;

(*d*) in relation to a jamadar, any jamadar of a higher grade and any subahdar or inspector;

(*e*) in relation to a subahdar, any subahdar of a higher grade and any inspector;

(*f*) in relation to an inspector, any inspector of a higher grade; and

(*g*) in relation to any military police-officer, any Second-in-command, Commandant or Deputy Commissioner.

More heinous offences.

6. A military police-officer who—

(*a*) begins, excites, causes or joins in any mutiny or sedition, or, being present at any mutiny or sedition, does not use his utmost endeavours to suppress it, or, knowing or having reason to believe in the existence of any mutiny, or of any intention to mutiny, does not without delay give information thereof to his commanding or other superior officer; or

(*b*) uses, or attempts to use, criminal force to, or commits an assault on, his superior officer, whether on or off duty; or

(*c*) shamefully abandons or delivers up any garrison, fortress, post or guard which is committed to his charge or which it is his duty to defend; or

(*d*) directly or indirectly holds correspondence with, or assists or relieves, any person in arms against the State, or omits to discover immediately to his commanding or other superior officer any such correspondence coming to his knowledge; or

who, while on active service,—

(*e*) disobeys the lawful command of his superior officer;

(*f*) deserts the service; or,

(*g*) being a sentry, sleeps upon his post, or quits it without being regularly relieved or without leave; or

(*h*) without authority leaves his commanding officer, or his post or party, to go in search of plunder; or

(*i*) quits his guard, picquet, party or patrol without being regularly relieved or without leave; or

(*j*) uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or forces a safeguard or without authority breaks into any house or any other place for plunder, or plunders, destroys or damages any property of any kind; or

(*k*) intentionally causes or spreads a false alarm in action, camp, garrison or quarters,

shall be punished with transportation for life or for a term of not less than seven years, or with imprisonment for a term which may extend to fourteen years, or with fine which may extend to three months' pay, or with fine to that extent in addition to such sentence of transportation or imprisonment, as the case may be, as may be passed upon him under this section.

Less heinous offences.

7. A military police-officer who—

(*a*) is in a state of intoxication when on or for any duty or on parade or on the line of march; or

(*b*) strikes or attempts to force any sentry; or,

(*c*) being in command of a guard, picquet or patrol, refuses to receive any prisoner duly committed to his charge, or without proper authority releases any prisoner, or negligently suffers any prisoner to escape; or,

(*d*) being under arrest or in confinement, leaves his arrest or confinement before he is set at liberty by proper authority; or

(*e*) is grossly insubordinate or insolent to his superior officer in the execution of his office; or

(*f*) refuses to superintend or assist in the making of any field-work or other military work of any description ordered to be made either in quarters or in the field; or

(*g*) strikes or otherwise ill-uses any military police-officer subordinate to him in rank or position; or,

(*h*) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has committed any riot or trespass, fails, on proof of the truth of the complaint, to have due reparation made to the injured person and to report the case to the proper authority; or

(*i*) designedly or through neglect injures or loses, or fraudulently disposes of, his arms, clothes, tools, equipments, ammunition, accoutrements or regimental necessaries, or any such articles entrusted to him or belonging to any other person; or

(*j*) malingers, or feigns or produces disease or infirmity in himself, or intentionally delays his cure, or aggravates his disease or infirmity; or,

(*k*) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person; or

who, while not on active service,—

(*l*) disobeys the lawful command of his superior officer; or

(*m*) plunders, destroys or damages any property of any kind; or,

(*n*) being a sentry, sleeps upon his post or quits it without being regularly relieved or without leave; or

(*o*) deserts the service;

shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to three months' pay, or with both.

Corporal punishment.

8. A military police-officer, not being above the rank of constable, who, while on service at an outpost at the time of a projected attack on that post, or in the field against hostile tribes or other persons, commits any offence specified in either of the two last foregoing sections may, in lieu of any punishment to which he is liable thereunder, be punished with whipping:

Provided that—

(*a*) the punishment of whipping shall not in any case exceed thirty stripes; and

(*b*) sentence of whipping shall be passed only by a Deputy Commissioner, or, in his absence, by a Commandant invested with the powers of a Magistrate of the first or second class.

Minor punishments.

9. (*1*) A Deputy Commissioner, Commandant or Second-in-command, or an officer commanding a separate detachment or an outpost or in

temporary command at the headquarters of a district during the absence of the Deputy Commissioner, Commandant and Second-in-command, may, without a formal trial, award to any military police-officer who is subject to his authority any of the following punishments for the commission of any petty offence against discipline which is not otherwise provided for in this Act or which is not of a sufficiently serious nature to call for a prosecution before a Criminal Court, that is to say,—

(*a*) imprisonment to the extent of seven days in the quarter-guard or such other place as may be considered suitable, with forfeiture of all pay and allowances during its continuance;

(*b*) punishment-drill, extra guard, fatigue or other duty, not exceeding thirty days in duration, with or without confinement to quarters.

(*2*) Any one of these punishments may be awarded separately or in combination with any one or more of the others.

Place of imprisonment.

10. A person sentenced under this Act to imprisonment for a period not exceeding three months shall, when he is also dismissed from the Burma police-force, be imprisoned in the nearest or such other jail as the Local Government may, by general or special order, direct, but, when he is not also dismissed from that force, he may, if the convicting officer or Deputy Commissioner so directs, be confined in the quarter-guard or such other place as the convicting officer or Deputy Commissioner may consider suitable.

Conferment of magisterial powers on police-officers.

11. Notwithstanding anything in Act V of 1861 or in any other enactment for the time being in force, the Local Government may invest any police-officer not below the rank of Commandant with the powers of a Magistrate of any class for the purpose of enquiring into or trying any offence committed by a military police-officer and punishable under Act V of 1861 or this Act.

Disciplinary and other powers of Commandants and Seconds-in-command of Military Police otherwise than in respect of Military Police.

12. (*1*) Subject to such rules as the Local Government may make in this behalf, a Commandant or Second-in-command of Military Police shall have, with respect to police-officers appointed to the Burma police-force under section 7 of Act V of 1861 who are not military police-officers, the same disciplinary powers as a District Superintendent of Police has with respect to them under that section.

(*2*) The Local Government may confer on a Commandant or Second-in-command of Military Police, by name or by virtue of his office, any other power of a District Superintendent of Police under Act V of 1861 or any other enactment for the time being in force, or under any rule under any such enactment, and may define the circumstances in which any power so conferred may be exercised by such Commandant or Second-in-command.

Privileges of Commandants and Seconds-in-command of Military Police as police-officers.

13. A Commandant or Second-in-command of military police shall be entitled to all the privileges which a police-officer has under sections 42 and 43 of Act V of 1861, section 125 of the Indian Evidence Act, 1872, and any other enactment for the time being in force. I of 1872.

Power to make rules.

14. The Local Government may, as regards the military police, make such orders and rules consistent with this Act as it thinks expedient relative to the several matters respecting which the Inspector General of Police, with the approval of the Local Government, may, as regards the rest of the Burma police-force, frame orders and rules under section 12 of Act V of 1861.

THE SCHEDULE.

STATEMENT.

(*See sections 3 and 4*)

After you have served for three years in the Burma Military Police you may, at any time when not on active service, apply for your discharge, through the Inspector, if any, to whom you may be subordinate, to a Commandant of Military Police or to the Deputy Commissioner of the district in which you may be serving, and you will be granted your discharge after two months from the date of your application, unless your discharge would cause the vacancies in the Burma Military Police to exceed one-tenth of the sanctioned strength; in that case you must remain until this objection is waived by competent authority or removed. But when on active service you have no claim to a discharge, and you must remain and do your duty until the necessity for retaining you in the Burma Military Police ceases, when you may make your application in the manner hereinbefore prescribed. In the event of your re-enlistment, after you have been discharged, you will have no claim to reckon for pension or any other purpose your service previous to your discharge.

(Signature of police-officer in acknowledgment of the above having been read to him.) *A. B.*

Signed in my presence after I had ascertained that *A. B.* understood the purport of what he signed.

C. D.,
Magistrate, Commandant or Second-in-command.

ACT No XVIII OF 1888.

An Act to provide for the appointment of a Financial Commissioner for Burma and for the definition of his functions.

Received the Governor General's assent on the 21st December, 1888.

WHEREAS it is expedient that there should be a Financial Commissioner for Burma; It is hereby enacted as follows:—

Extent and commencement.

1. (*1*) This Act shall extend to the whole of Burma (inclusive of Upper Burma) except the Shan States; and

(*2*) It shall come into force at once.

Appointment of Financial Commissioner.

2. (*1*) There shall be a Financial Commissioner for Burma, and he shall be appointed, and may be removed, by the Local Government with the previous sanction of the Governor General in Council.

(*2*) Any person appointed by the Local Government or by the Governor General in Council to the office of Financial Commissioner since the first day of April, 1888, shall be deemed to have been appointed under sub-section (*1*).

Subordination of Financial Commissioner to Local Government.

3. The Financial Commissioner shall be subject to the control of the Local Government and shall, subject to the provisions of this Act and of any other enactment for the time being in force, discharge such functions as that Government may assign to him.

Financial Commissioner to be Chief Revenue-authority.

4. In any enactment for the time being in force in which the expression "Chief Revenue-authority" or "Chief Controlling Revenue-authority" is used, the expression shall, subject to the provisions of any enactment passed after the commencement of this Act and to any conditions and restrictions which the Local Government, with the previous sanction of the Governor General in Council, may prescribe, be construed as referring to the Financial Commissioner.

Delegation of powers to Financial Commissioner by Local Government.

5. The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, delegate to the Financial Commissioner, subject to such conditions and restrictions, if any, as that Government, with such sanction as aforesaid, may prescribe, all or any of the functions assigned to that Government by any enactment for the time being in force.

Validation of past proceedings of Financial Commissioner.

6. All acts and proceedings done and taken after the first day of April, 1888, and before the commencement of this Act, by any person appointed by the Local Government or the Governor General in Council to the office of Financial Commissioner, or by any person acting under the authority of a person so appointed, shall be as valid and operative as they would have been

if they had been done and taken in exercise of powers conferred by or conferable under this Act.

Modification of certain enactments.

7. The enactments specified in the schedule shall be modified to the extent and in the manner mentioned in the third column thereof.

THE SCHEDULE.

ENACTMENTS MODIFIED.

Number and year.	Title.	Modification.
I of 1879 . .	Indian Stamp Act, 1879.	In section 3, clause (7), insert the words "and Burma" after the word "Punjab".
III of 1879 . .	Destruction of Records Act, 1879.	In section 7 insert the words "and Burma" after the word "Punjab".
XXII of 1881[a] . .	Excise Act, 1881 .	In section 3, clause (*a*), omit the words "British Burma", and for the words "in the territories administered by the Lieutenant-Governor of the Punjab" substitute the words "in the territories respectively administered by the Lieutenant-Governor of the Punjab and the Chief Commissioner of Burma": in section 10 omit the words "British Burma": and in all other sections in which those words occur, except section 1, substitute the word "Burma" for them.
XX of 1886[b] . .	Upper Burma Laws Act, 1886.	In the second schedule, first part, for "(ss. 2, 4 and 8)", against Act III of 1879, substitute "(ss. 2, 4, 5, 7 and 8)".

[a] See *supra*, p. 52.

[b] See *infra*, p. 363.

PART II.

LOCAL ENACTMENTS IN FORCE IN LOWER BURMA ONLY.

A.—BENGAL REGULATIONS.

REGULATION V OF 1799.

Passed on the 3rd May, 1799.

A Regulation to limit the interference of the Zila *and City* Courts of Diwáni Adálat in the execution of wills and administration to the estates of persons dying intestate.

Procedure in cases of persons dying intestate leaving personal property to which there is no claimant.

7. The Judges of the Zila[b] Courts, on receiving information that any person within their respective jurisdictions has died intestate, leaving personal property, and that there is no claimant to such property,[c] are to adopt such measures as may be necessary for the temporary care of the property, and to issue an advertisement in the current languages of the country, requiring the heir of the deceased, or any person entitled to receive charge of his effects, to attend for this purpose.

Such advertisement to be published on the spot where the property was found at the Diwáni Adálat kachari of the zila,[b] and, if ascertainable, at the dwelling place of the deceased, or, if the deceased were an European, in the Calcutta Gazette; after which, should any person attend and satisfy the Judge of his title to the property, or to receive charge thereof as executor, administrator or otherwise, the same is to be delivered up to him, on repayment of any necessary expense incurred in the care of it.

Should no claim be preferred within the twelve months next ensuing, an inventory of the property and report of the circumstances of the case is to be transmitted to the [d]Local Government[d] for his orders.

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[a] The unrepealed part of s. 7 of this Regulation has been declared to extend, *mutatis mutandis*, and from the 16th September, 1875, to have extended, to Lower Burma—see Act XI of 1889, s. 99 (2), *infra*, p. 334.

[b] Certain words, repealed by Act XVI of 1874, s. 1, have here been omitted.

[c] As to duty of police in respect to unclaimed property, see Act V of 1861, s. 25.

[d-d] These words have been substituted—see Act XI of 1889, s. 99 (2), *infra*, p. 334.

REGULATION X OF 1804.[a]

Passed on the 14th December, 1804.

A Regulation for declaring the Powers of the Governor General in Council to provide for the immediate Punishment of certain Offences against the State by the Sentence of Courts-Martial.

Power in time of war to suspend functions of ordinary Criminal Courts, and establish martial law,

2. The Governor General in Council is hereby declared to be empowered to suspend, or to direct any public authority or officer to order the suspension of, wholly or partially, the functions of the ordinary criminal Courts of Judicature, within any zila, district, city or other place, within any part of [b] the Arakan Hill district,[b] and to establish martial law therein, for any period of time while the British Government in India shall be engaged in war with any Native or other Power, as well as during the existence of open rebellion against the authority of the Government, in any part of the territories aforesaid;

and to direct immediate trial by courts-martial of lieges offending against Regulation.

and also to direct the immediate trial, by courts-martial, of all persons owing allegiance to the British Government, either in consequence of their having been born, or of their being residents, within its territories and under its protection, who shall be taken in arms in open hostility to the British Government, or in the act of opposing by force of arms the authority of the same or in the actual commission of any overt act of rebellion against the State, or in the act of openly aiding and abetting the enemies of the British Government within any part of the said territories.

Lieges convicted by court-martial of crime specified in section 2 liable to immediate punishment of death;

3. It is hereby further declared that any person born or residing under the protection of the British Government within the territories aforesaid, and consequently owing allegiance to the said Government, who, in violation of the obligations of such allegiance, shall be guilty of any of the crimes specified in the preceding section, and who shall be convicted thereof by the sentence of a court-martial, during the suspension of the functions of the ordinary Criminal Courts of Judicature and the establishment of the martial law, shall be liable to the immediate punishment of death, and shall suffer the same accordingly, by being hung by the neck till he is dead.

and to forfeiture of property.

All persons who shall, in such cases, be adjudged by a court-martial to be guilty of any of the crimes specified in this Regulation shall also forfeit to the British Government all property and effects, real and personal, which they

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[a] This Regulation, except s. 1 and subject to certain modifications, has been declared to extend to the Hill District of Arakan—see Reg. IX of 1874, Sch., *infra*, p. 361.

[b-b] These words in s. 2 have been substituted—see Reg. IX of 1874, Sch., *infra*, p. 361.

shall have possessed within its territories, at the time when the crime of which they may be convicted shall have been committed.

4. The Governor General in Council shall not be precluded by this Regulation from causing persons charged with any of the offences described in the present Regulation to be brought to trial, at any time, before the ordinary Courts of Judicature,[a] instead of causing such persons to be tried by courts-martial, in any cases wherein the latter mode of trial shall not appear to be indispensably necessary.

Governor General not precluded from causing persons charged with offence to be tried by ordinary Courts.

ACT No. XXVI of 1854.[b]

Received the Governor General's assent on the 11th November, 1854.

An Act for making better provision for the education of male minors subject to the superintendence of the Court of Wards.

Preamble.

WHEREAS the existing laws are found insufficient to ensure the proper education of male minors subject to the superintendence of the Court of Wards, and it is expedient to make further and better provision for the education of such persons; It is enacted as follows:—

General control of education of male minor wards vested in Collectors.

1. The general superintendence and control of the education of every male minor whose property has been or shall be brought under the management of the Court of Wards, in and for any part of the Presidency of Fort William, by virtue of any Act or Regulation which now is, or hereafter shall be, in force, is hereby vested in the Collector of revenue, acting under the said Court of Wards, in the zila or district wherein such minor's estate is situate; or, if such minor is possessed of immoveable property in different districts, in such one of the Collectors of revenue of such districts as the said Court of Wards shall select.

Power to cause male minor wards to be educated at any school or college;

2. It shall be lawful for every Collector of revenue, in whom the superintendence of the education of any minor is vested by this Act, to direct that such minor shall reside, either with or without his guardian, at the sadr station of the district, or at any other place within the said Presidency, and shall attend, for the purposes of education, such school or college as to the said Collector may seem expedient; and to make such provision as may be necessary for the proper care and suitable maintenance of the said minor while attending such school or college.

or to cause such wards to be educated privately.

3. If it shall appear to the Collector inexpedient to place any such minor at a school or college, he shall, if the proceeds of the estate are sufficient for that purpose, cause such minor to be educated by a private tutor, properly

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[a] Certain words in s. 4 repealed by Reg. IX of 1874 have here been omitted—see *infra*, p. 361.

[b] See Act XL of 1858, s. 25, *infra*, p. 85.

qualified, either at the family residence of such minor, or at the sadr station, or elsewhere within the said Presidency;

and in that case also the Collector shall have power to determine from time to time the place of residence of such minor, and to make such provision as may be necessary for his proper tuition and maintenance during the period of his education.

Expenses incurred under Act to be paid out of profits of ward's estate.

4. All charges and expenses which may be incurred on account of any male minor ward under the provisions of this Act, for college or school fees, or for other charges of tuition or education, or by reason of his residence in any place other than his own home or otherwise, shall be defrayed from the profits of his estate in the same manner as other expenses incurred under the authority or with the sanction of the Court of Wards.

Court of Wards may remove guardian for disobedience to Collector's orders.

5. It shall be lawful for the Court of Wards, on the application of a Collector, to remove from office any guardian who shall neglect or refuse to obey, or shall evade compliance with, any orders passed or directions given by such Collector under the provisions of this Act, and to cause a new guardian to be appointed in his place, whether the person so removed shall have been first invested with the guardianship of the minor upon the nomination of a Collector acting under the Court of Wards, or by a testamentary appointment confirmed by the Court of Wards;

and if, in any such case, the guardian to be removed shall be also the manager of the minor's estate, it shall be lawful for the Court of Wards at its discretion either to remove him from both the said offices, or to continue him in that of manager only.

Continued liability of guardian removed:

6. The guardian so removed shall, notwithstanding his removal, continue liable to account to the Collector for his receipts and disbursements during the period of his guardianship:

powers and responsibilities of new guardian.

and every guardian appointed in the place of a guardian so removed shall be chosen in the same way, and shall have the same rights and powers, and be subject to the same responsibilities, as persons originally appointed to be guardians of minors by a Collector of revenue acting under the Court of Wards.

Right to custody of person of male minor vested in guardian appointed by Court of Wards or in Collector.

7. The right to the custody of the person of any male minor, whose property is under the management of the Court of Wards, is hereby vested in the person appointed with the sanction of the Court of Wards, either originally, or upon the removal of a former guardian, to be the guardian of such minor, or, in the absence of any such person, in the Collector of revenue having the superintendence of the education of such minor under the provisions of this Act.

Appeal from

8. All orders and proceedings of a Collector under the provisions of this

Act shall be subject to the revision of the Court of Wards, and every person aggrieved by any such order or proceeding may prefer an appeal therefrom to the Commissioner of revenue acting as a Court of Wards in and for the division to which such Collector belongs. orders of Collector to lie to Commissioner acting as Court of Wards.

ACT No. XL OF 1858.[a]

Received the Governor General's assent on the 11th December, 1858.

An Act for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal.

WHEREAS it is expedient to make better provision for the care of the persons and property of minors not brought under the superintendence of the Court of Wards; It is enacted as follows:— Preamble.

1. [*Regulations repealed.*] *Rep. by Act XIV of 1870, s. 1.*

2. Except in the case of proprietors of estates paying revenue to Government who have been or shall be taken under the protection of the Court of Wards, the care of the persons of all minors (not being European[b] British subjects) and the charge of their property shall be subject to the jurisdiction of the Civil Court. Care of persons and property of minors not under Court of Wards.

3. Every person who shall claim a right to have charge of property in trust for a minor under a will or deed, or by reason of nearness of kin, or otherwise, may apply to the Civil Court for a certificate of administration; Who may apply for certificate of administration.

and no person shall be entitled to institute or defend any suit connected with the estate of which he claims the charge until he shall have obtained such certificate: No person to institute or defend suit without certificate.

Provided that, when the property is of small value, or for any other sufficient reason, any Court having jurisdiction may allow any relative of a minor to institute or defend a suit on his behalf, although a certificate of administration has not been granted to such relative. Proviso.

4. Any relative or friend of a minor in respect of whose property such certificate has not been granted, or, if the property consist in whole or in part of land or any interest in land, the Collector of the district, may apply to the Civil Court to appoint a fit person to take charge of the property and person of such minor. Who may apply to Court to appoint a person to take charge of minor's property, &c.

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[a] This Act has been declared to be, and from the 15th January, 1863, to have been, in force throughout Lower Burma—see Act XI of 1889, s. 99 (*1*), *infra*, p 334.

[b] As to European British minors, see Act XIII of 1874, *infra*, p 88.

Application where property in more than one district.

5. If the property be situate in more than one district, any such application as aforesaid shall be made to the Civil Court of the district in which the minor has his residence.

Procedure of Court on application.

6. When application shall have been made to the Civil Court either by a person claiming a right to have charge of the property of a minor, or by any relative or friend of a minor, or by the Collector, the Court shall issue notice of the application and fix a day for hearing the same.

On the day so fixed, or as soon after as may be convenient, the Court shall enquire summarily into the circumstances and pass orders in the case:

Proviso.

Provided always that it shall be competent to the Civil Court to direct any Court subordinate to it to make such enquiry and report the result.

Certificate of administration to whom to be granted.

7. If it shall appear that any person claiming a right to have charge of the property of a minor is entitled to such right by virtue of a will or deed, and is willing to undertake the trust, the Court shall grant a certificate of administration to such person.

If there is no person so entitled, or if such person is unwilling to undertake the trust, and there is any near relative of the minor who is willing and fit to be entrusted with the charge of his property, the Court may grant a certificate to such relative.

Appointment of guardian by Court.

The Court may also, if it think fit (unless a guardian have been appointed by the father), appoint such person as aforesaid or such relative, or any other relative or friend of the minor, to be guardian of the person of the minor.

Court may call for report as to relative or friend.

8. The Court may call upon the Collector or Magistrate for a report on the character and qualification of any relative or friend of the minor who may be desirous or willing to be entrusted with the charge of his property or person.

Proceeding if no title to a certificate be established, and if there be no relative fit to be entrusted with property, &c.

9. If no title to a certificate be established to the satisfaction of the Court by a person claiming under a will or deed, and if there be no near relative willing and fit to be entrusted with the charge of the property of the minor, and the Court shall think it to be necessary for the interest of the minor that provision should be made by the Court for the charge of his property and person, the Court may proceed to make such provision in the manner hereinafter provided.

When Court may grant certificate to Public Curator or other person.

10. If the estate of the minor consist of moveable property, or of houses, gardens, or the like, the Court may grant a certificate to the Public Curator appointed under section 19 of Act XIX of 1841 (*for the protection of moveable and immoveable property against wrongful possession in certain cases*), or, if there be no Public Curator, to any fit person whom the Court may appoint for the purpose.

Appointment of guardian.

11. Whenever the Court shall grant a certificate of administration to the

estate of a minor to the Public Curator or other person as aforesaid, it shall at the same time appoint a guardian to take charge of the person and maintenance of the minor.

The person to whom a certificate of administration has been granted, unless he be the Public Curator, may be appointed guardian.

Guardian's allowance.

If the person appointed to be guardian be unwilling to discharge the trust gratuitously, the Court may assign him such allowance, to be paid out of the estate of the minor, as under the circumstances of the case it may think suitable.

Minor's allowance.

The Court may also fix such allowance as it may think proper for the maintenance of the minor; and such allowance and the allowance of the guardian (if any) shall be paid to the guardian by the Public Curator or other person as aforesaid.

When Court may direct Collector to take charge of estate; appointment of manager and guardian thereupon.

12. If the estate of the minor consist, in whole or in part, of land or any interest in land, the Court may direct the Collector to take charge of the estate, and thereupon the Collector shall appoint a manager of the property of the minor and a guardian of his person, in the same manner and subject to the same rules in respect of such appointments and of the duties to be performed by the manager and guardian respectively, so far as the same may be applicable, as if the property and person of the minor were subject to the jurisdiction of the Court of Wards.

Costs of enquiries under this Act.

13. In all enquiries held by the Civil Court under this Act the Court may make such order as to the payment of costs by the person on whose application the enquiry was made, or out of the estate of the minor, or otherwise as it may think proper.

When Civil Court may direct Collector to retain charge of shares and persons of minors.

14. Whenever one or more of the proprietors of an estate, which has come under the jurisdiction of the Court of Wards on account of the disqualification of all the proprietors, ceases to be disqualified, and the estate, in consequence, ceases to be subject to the jurisdiction of the Court of Wards, notwithstanding the continued disqualification of one or more of the co-proprietors, the Collector of the district in which the estate is situate may represent the fact to the Civil Court; and the Court, unless it see sufficient reason to the contrary, shall direct the Collector to retain charge of the persons, and of the shares of the property, of the still disqualified proprietors, during the continuance of their disqualification, or until such time as it shall be otherwise ordered by the Court.

The Collector shall in such case appoint a guardian for the care of the persons, and a manager for the charge of the property, of the disqualified proprietors, in the manner prescribed in section 12.

Provision for case of estates situated in

If the property be situated in more than one district, the representation shall be made by the Collector who had the general management of the property

more than one district.

under the Court of Wards, to the Civil Court of his own district, and the orders of the Court of that district shall have effect also in other districts in which portions of the property may be situate.

Control of proceedings of Collector.

15. The proceedings of the Collector in the charge of estates under this Act shall be subject to the control of the superior Revenue-authorities.

Public Curator, &c., to furnish inventory and annual accounts.

16. The Public Curator and every other administrator to whom a certificate shall have been granted under section 10 shall, within six months from the date of the certificate, deliver in Court an inventory of any immoveable property belonging to the minor, and of all such sums of money, goods, effects and things as he shall have received on account of the estate, together with a statement of all debts due by or to the same.

And the Public Curator and every such other administrator shall furnish annually, within three months from the close of the year of the era current in the district, an account of the property in his charge, exhibiting the amounts received and disbursed on account of the estate, and the balance in hand.

Proceeding if accuracy of inventory or account be impugned.

If any relative or friend of a minor or any public officer, by petition to the Court, shall impugn the accuracy of the said inventory and statement or of any annual account, the Court may summon the curator or administrator and enquire summarily into the matter, and make such order thereon as it shall think proper, or the Court at its discretion may refer such petition to any subordinate Court.

Payment of surplus into treasury.

17. All sums received by the Public Curator or such other administrator on account of any estate, in excess of what may be required for the current expenses of the minor or of the estate, shall be paid into the public treasury on

Investment.

account of the estate, and may be invested from time to time in the public securities.

Powers of person to whom certificate has been granted in the management of a minor's estate.

18. Every person to whom a certificate shall have been granted under the provisions of this Act may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a minor, and may collect and pay all just claims, debts and liabilities due to or by the estate of the minor.

But no such person shall have power to sell or mortgage any immoveable property, or to grant a lease thereof for any period exceeding five years, without an order of the Civil Court previously obtained.

Relative or friend may sue for an account.

19. It shall be lawful for any relative or friend of a minor, at any time during the continuance of the minority, to sue for an account from any manager appointed under this Act, or from any person to whom a certificate shall have been granted under the provisions of this Act, or from any such manager or person after his removal from office or trust, or from his personal

representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

Continuance of suit after disqualification ceases.

20. If the disqualification of a person, for whose benefit a suit shall have been instituted under this Act, cease before the final decision thereof, it shall be lawful for such person to continue the prosecution of the suit on his own behalf.

Revocation of certificate.

21. The Civil Court for any sufficient cause may recall any certificate granted under this Act, and may direct the Collector to take charge of the estate, or may grant a certificate to the Public Curator or any other person as the case may be; and may compel the person whose certificate has been recalled to make over the property in his hands to his successor, and to account to such successor for all moneys received and disbursed by him.

Removal of guardian.

The Court may also for any sufficient cause remove any guardian appointed by the Court.

Penalty for neglect or refusal to deliver accounts or property.

22. The Civil Court may impose a fine not exceeding five hundred rupees on any person who may wilfully neglect or refuse to deliver his accounts, or any property in his hands, within the prescribed time, or a time fixed by the Court; and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court; and may also commit the recusant to close custody until he shall consent to deliver such accounts or property.

Civil Court may permit resignation of trust, &c.

23. The Civil Court may permit any person to whom a certificate shall have been granted under this Act not being the Public Curator, and any guardian appointed by the Court, to resign his trust; and may give him a discharge therefrom on his accounting to his successor, duly appointed, for all moneys received and disbursed by him, and making over the property in his hands.

Remuneration of Public Curator, &c.

24. The Public Curator and every other administrator to whom a certificate shall have been granted under section 10 shall be entitled to receive such commission not exceeding five per centum on the sums received and disbursed by him, or such other allowance, to be paid out of the minor's estate, as the Civil Court shall think fit.

Guardians of minors under this Act to provide for their education.

25. Every guardian appointed by the Civil Court, or by the Collector under this Act, who shall have charge of any male minor, shall be bound to provide for his education in a suitable manner.

The general superintendence and control of the education of all such minors shall be vested in the Civil Court or in the Collector, as the case may be; and the provisions of Act XXVI of 1854[a] (*for making better pro-*

Act XXVI of

[a] See *supra*, p. 79.

1854 declared applicable.

vision for the education of male minors subject to the superintendence of the Court of Wards) shall, so far as is consistent with the provisions herein contained, be applicable to the Civil Court, or to the Collector, as the case may be, in respect to such minors, and to every such guardian.

Persons under eighteen years to be minors.

26. For the purposes of this Act, every person shall be held to be a minor who has not attained the age of eighteen years.

Act not to authorize the appointment of guardians of certain married women and other persons.

27. Nothing in this Act shall authorize the appointment of a guardian of the person of a female whose husband is not a minor, or the appointment of a guardian of the person of any minor whose father is living and is not a minor; and nothing in this Act shall authorize the appointment of any person other than a female as the guardian of the person of a female.

Guardianship in such cases when to cease.

If a guardian of the person of a minor be appointed during the minority of the father or husband of the minor, the guardianship shall cease as soon as the father or husband (as the case may be) shall attain the age of majority.

Appeals.

28. All orders passed by the Civil Court or by any subordinate Court under this Act shall be open to appeal under the rules in force for appeals, in miscellaneous cases, from the orders of such Court and the subordinate Courts.

Construction of "Civil Court".

29. The expression "Civil Court" as used in this Act shall be held to mean the principal Court of original jurisdiction in the district, and shall not include the Supreme Court;

Powers of Supreme Court not affected.

and nothing contained in this Act shall be held to affect the powers of the Supreme Court over the person or property of any minor subject to its jurisdiction.

Number.

Gender.

Unless the contrary appears from the context, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females.

THE EUROPEAN BRITISH MINORS ACT, 1874.

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SCHEDULE of FORMS.

ACT No. XIII of 1874.

Received the Governor General's assent on the 8th December, 1874.

An Act to provide in the Punjab and elsewhere for the guardianship of European British Minors.

Preamble. WHEREAS it is expedient to provide in the Punjab, Oudh, the Central Provinces, Lower Burma, Coorg, Ajmere and Merwára and Assam for the guardianship of minors who either are born in the United Kingdom or any British colony, or are the children or grandchildren of persons so born; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title. 1. This Act may be called the European British Minors Act, 1874:

Local extent. It extends to the territories[a] respectively subject to the government of the Lieutenant-Governor of the Punjab and to the administration of the Chief Commissioners of Oudh, the Central Provinces, Lower Burma,[a] Coorg, Ajmere and Merwára and Assam;

Personal application. [1]So far as relates to minors, it applies only to persons born in the United Kingdom of Great Britain and Ireland, or any British colony, plantation or settlement other than British India, and to their children and grandchildren;

Commencement. And it shall come into force at once.

Interpretation-clause, "Minor." 2. In this Act—

"minor" means a person who has not completed the age of eighteen years:

"Guardian" "guardian" means a person who is appointed to take care of a minor's person or property, or both; and

"Court." "Court" means the highest Civil Court of appeal in any territory (other than Lower Burma) to which this Act extends.

In Lower Burma "Court" means, in the town of Rangoon, the Court of the Recorder of Rangoon, and elsewhere, the Court of the Deputy Commissioner.[b]

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[a] The territories are now known as Lower Burma—see Act XX of 1886, s 2 (*1*) (*b*), *infra*, p 364, and the Chief Commissioner is styled Chief Commissioner of Burma—see Proclamation, dated 25th September, 1886, Gazette of India, 25th *idem*, Pt. I, p. 539.

[b] For the purposes of s 2, the Judge of the Town of Maulmain is to be deemed to be a Deputy Commissioner; provided that appeals from his orders shall lie to the Special Court—see Act XI of 1889, s. 87, *infra*, p 331.

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PART II.

APPOINTMENT OF GUARDIANS.

Appointment by parent.

3. A guardian of the person or property, or both, of any minor may be appointed by will or other instrument to take effect upon the death of the parent appointing—

(*a*) if the minor is legitimate, by the father, or by either parent if the other is dead or incapable of acting;

(*b*) if the minor is illegitimate, by the mother.

Appointment by Court.

4. If the Court within the local limits of whose jurisdiction any minor resides finds that the guardianship of his person or property has not been sufficiently provided for under section 3, the Court may appoint a guardian of his person or property, or both, as the case may be.

If the minor has several properties, the Court may, if it think fit, appoint a guardian for each such property.

If the Court appoints a guardian for any property situate beyond the local limits of its jurisdiction, the Court within the local limits of whose jurisdiction such property may be situate shall accept such guardian as duly appointed and give effect to the order appointing him.

Application for appointment.

5. Whoever desires to be appointed the guardian of a minor's person or property, or both, may apply to the Court within the local limits of whose jurisdiction the minor resides by petition setting forth the grounds of his application, and showing—

(*a*) the minor's age and residence;

(*b*) the nature and amount of his property;

(*c*) what relatives he has in India or elsewhere; and

(*d*) the qualifications of the proposed guardian and his willingness to act as such.

Stamp. Verification.

The petition shall bear a stamp of five rupees, and the statements therein contained shall be verified by the petitioner or some other competent person in manner required by law for the verification of plaints, and may at the hearing be referred to as evidence.

Notice of application.

The Court, if satisfied that there is ground for proceeding, shall give notice of the application to the person (if any) named in the petition as having the custody or being in possession of the person or property of such minor, as well as to any other person whom the Court may think should receive such notice, and shall fix as early a day as may be convenient for the hearing of the petition.

Production of minor.

6. The Court may direct that the person (if any) having the custody of such minor shall produce him at such place and time as may be appointed by

the Court, and may make such order for the temporary custody and protection of the minor's person or property as may appear proper.

Evidence of fitness.

7. On the day fixed for the hearing of the petition, or as soon after as may be practicable, the petitioner shall adduce evidence to show the fitness of the proposed guardian;

and the Court shall make such order as it thinks fit in respect to the guardianship of the minor's person or property, or both, and the costs of the case.

Procedure.

8. In cases instituted under this Act, the Court shall be guided by the procedure prescribed in the Code of Civil Procedure[a] in so far as the same is applicable; and any order made by the Court under section 6 or section 7 may be enforced as if such order had been made in a regular suit or on appeal; and all orders made under this Act by Deputy Commissioners[b] in Lower Burma shall be appealable as if they were decrees. XIV of 1882.

Forms.

The forms set forth in the schedule hereto annexed, with such variation as the circumstances of each case require, may be used for the respective purposes mentioned in such schedule.

Subsidiary rules.

And the Court may from time to time prescribe rules consistent with this Act for regulating the procedure hereunder:

Provided that, in the case of Courts of Deputy Commissioners in Lower Burma, such rules shall be prescribed by the Judicial Commissioner.

Orders under Act not to be contested.

9. Save as provided by section 8, no order passed under this Act in respect to the guardianship of a minor's person or property shall be liable to be contested in any other proceeding.

Rules for guidance of Court in appointing guardian.

10. In appointing the guardian of a minor the Court shall be guided by the following considerations:—

(*a*) by what appears to be for the best interest of the minor in respect to his temporal and his mental and moral welfare; and, if the minor is old enough to form an intelligent preference, the Court may consider that preference:

(*b*) as between parents adversely claiming the custody or guardianship, neither parent is entitled to it as of right; but if, other things being equal, the minor is of tender years, he should be given to the mother: if he is of an age to require education and preparation for labour and business, then to the father:

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[a] Now Act XIV of 1882—see s. 3, *ibid.*

[b] For the purposes of s. 8, the Judge of the Town of Maulmain is to be deemed to be a Deputy Commissioner; provided that appeals from his orders shall lie to the Special Court—see Act XI of 1889, s 87, *infra*, p 331.

(*c*) the Court shall also consider the following circumstances according as they may bear upon the guardianship of person or property :—

(1) nearness of relationship;

(2) the wishes of a deceased parent,

(3) Any existing or previous connection of the proposed guardian with the minor's person or property.

PART III.

Guardians' Duties, Rights and Liabilities.

A.—Guardians of the Person.

Duties of guardian of the person.

11. A guardian of the person is charged with the custody of the ward, and must look to his support, health and education.

Ward's religion.

12. A ward is presumed to be of his father's religion; and the guardian, in the absence of the Court's direction to the contrary, must train the ward in such religion. If the ward is old enough to form an intelligent preference for any religion, the Court, in giving such direction, shall attend to such preference.

Guardian entitled to custody of ward.

13. Any ward who may desert his home may be compelled by order of the Court to return. But such order may be withheld by the Court if it appear—

(*a*) that the ward has been subjected to maltreatment at the hands of his guardian;

(*b*) that the conduct of the guardian in other respects renders him unfit for the office; or

(*c*) that the ward is on reasonable grounds unwilling to return and is old enough to form an intelligent preference on such a subject.

Removal of ward from jurisdiction.

14. No guardian of the person appointed by the Court shall, without the leave of the Court, remove its ward from the limits of its jurisdiction.

Any person wilfully contravening this prohibition shall be liable by order of the Court to fine not exceeding one thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

B.—Guardians of Property.

Duties of guardian of property.

15. A guardian of the property shall keep safely the property of his ward.

Prohibition of waste.

In the case of immoveable property, he shall not suffer any waste, but shall maintain the buildings (if any) thereon and their appurtenances out of the rents and profits of the property.

Power to lease.

16. The guardian of any immoveable property may make leases for any term not exceeding a year, or from year to year, of such property or any part

thereof; and, with the sanction of the Court, may make such lease of the property, or any part thereof, for such term of years and subject to such rents and covenants as the Court may direct; but in no such case shall any fine or premium be taken.

The lease shall be settled by an officer of the Court, and a counterpart thereof shall be executed by the lessee, and shall be deposited for safe custody in the Court until the ward completes the age of eighteen years; but all proper parties shall have the use thereof, if necessary, for the purpose of enforcing any covenant therein contained.

Power to use principal for ward's maintenance, &c.

17. The Court may order that the principal of the ward's property, or any part thereof, shall be applied for his maintenance, education or advancement, and the guardian of such property shall obey such order.

Rules as to guardians of property.

18. Every guardian of the property of a minor shall—

(*a*) give such security, if any, as the Court thinks fit duly to account for what he shall receive in respect of the minor's property;

(*b*) pass his accounts at such periods and in such form as the Court directs;

(*c*) pay the balance due from him thereon;

(*d*) be entitled to such allowance, if any, as the Court thinks fit for his care and pains in the execution of his duties;

(*e*) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

C.—As to all Guardians.

Minor guardians incompetent to act.

19. No person appointed a guardian shall be competent to act as such unless he has completed the age of eighteen years.

Guardian under control of Court.

20. Every guardian, whether appointed by a parent or under this Act by a Court, is subject to the control of the Court within the local limits of whose jurisdiction he resides.

Death of joint guardians.

21. On the death of one of two or more joint guardians, whether appointed by a parent or under this Act, the power continues to the survivor or survivors until a further appointment is made by the Court.

Removal of guardian.

22. A guardian may be removed by the Court for any of the following causes:—

(*a*) for abuse of his trust;

(*b*) for continued failure to perform its duties;

(*c*) for incapacity to perform its duties;

(*d*) for gross immorality;

(*e*) for having an interest adverse to the faithful performance of his duties;

(*f*) for removal from the local limits of the jurisdiction of the Court;

(*g*) the arrival within such local limits of some person whose guardianship the Court may think likely to be more beneficial to the minor than the guardianship of the person so removed;

(*h*) in the case of a guardian of the property, for insolvency.

In any such case the Court may appoint a successor to the guardian so removed. Appointment of successor.

23. Any guardian, whether appointed by a parent or by the Court, desiring to resign his office, may apply to the Court to discharge him; Resignation of guardian.

and, if the Court finds that there is some other proper person whom it may appoint to such guardianship, it shall discharge the guardian accordingly and appoint such other proper person in his place.

24. Applications for appointments under section 22 or section 23 shall be made in manner provided in section 5; and the procedure thereon shall be in accordance with section 7. Application for appointment on guardian's removal or resignation.

25. The power of a guardian of the person ceases— Close of authority of guardian.

(*a*) by his removal or discharge;

(*b*) by the ward's attaining majority; and,

(*c*) in the case of a female ward, by her marriage followed by cohabitation.

The power of a guardian of the property ceases—

(*a*) by his removal or discharge;

(*b*) by the ward's attaining majority.

SCHEDULE.

I—*Petition for Appointment of Guardian.*

(*See section 5.*)

In the Chief Court of the Punjab [*or* In the Court of the Recorder of Rangoon, *or as the case may be*].

In the matter of *A. B.*, a minor, by *C. D.*, his next friend.

To Mr. Justice (*or as the case may be*).

The petition of *C. D.* of

Showeth—

1. The said *A. B.* is now of the age of years and upwards. He is the

same person as "*A.*, son of *C.* and *L. B.*," named in the paper-writing now produced and shown to me and marked *A*, and purporting to be a copy under the seal of the General Register Office of the entry No. in the certified copy of entries of births in the district of *D*, in the county of *L.*, for the year 18 .

2. The said *A. B.* is absolutely entitled, under the will of *his maternal uncle, E. F.*, late of (*residence and addition*), to the following properties (namely) :—

(*a*) a house in let to *N. O.* as yearly tenant at Rs. 1,000 a year;

(*b*) Rs. 20,000 in the four per cent. securities of the Government of India, standing in the names of *R. S.* and *T. W.*, the trustees of the will of the said *E. F.*;

(*c*) Rs. 800 cash in the hands of the said *R. S.* and *T. W.*, arisen from dividends on the said stock.

3. The only relations of the said *A. B.* now living are (*a*), your petitioner, his maternal uncle; (*b*) *S. H.*, wife of *T. H.* of (*residence and addition*), the half-sister of the said *A. B.*; and (*c*) *R. D. V.*, the half-brother of the said *A. B.*, who is a Captain in Her Majesty's Army, and now stationed at Bombay.

4. The said *A. B.* was, at the time of the death of his father, *C. B.*, which happened on the 18 , and is now, residing as a scholar at Bishop Cotton's School, Simla, in the custody of the Rev. *M. N.*, the head master.

5. Your petitioner [*here state his qualifications as guardian, e.g., that he has attained his majority, is married, has children, resides with his family at some reasonably healthy place, mentioning it, holds a responsible office, stating it*], and is willing to act as the guardian of the person and property [*or as may be*] of the said *A. B.* during his minority in case this Hon'ble Court shall think fit to appoint me to that office.

Your petitioner therefore prays this Hon'ble Court—

1. That your petitioner or some other proper person may, upon giving security, be appointed the guardian of the person and property of the said *A. B.* during his minority, or until further order.

2. And that the said *C. D.* or other such guardian may from time to time pass his accounts and pay the balances which shall be certified to be due from him into the Government Treasury to the credit of this matter, and that such balances may be laid out in securities of the Government of India, or in loans or bonds secured by the Imperial Parliament on the revenues of India, or in

debentures of railways guaranteed by the Government of India, and the interest to accrue thereon and all accumulations of interest be laid out in like manner.

3. And that the costs of this petition may be taxed as between attorney and client; and that the said *C. D.* or other such guardian may retain and pay the same out of any moneys of the said minor which may come to his hands and be allowed the same on passing his said accounts.

(*Signed*) *C. D.*

Form of Verification.

(*See section 5.*)

I, *C. D.*, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

II.—Affidavit of Fitness of Guardian.

(*See section 7.*)

In the Chief Court, &c. (*or as the case may be*).

In the matter of *A B.*, a minor, by *C. D.*, his next friend.

I, *E. F.*, of (*residence and addition*), make oath and say as follows:—

1. I know and have for years past been well acquainted with *C. D.*, the petitioner in this matter.

2. The said *C. D.* is married and has children, namely, a son of the age of years and daughters of the respective ages of and years.

3. The said *C. D.* resides with his wife and children at

4. In my judgment and belief the said *C. D.* is a fit and proper person to be appointed guardian of the person and property of his nephew, the said minor *A. B.*, for the following reasons (*state them*):—

Sworn at , this day of 18 , before me.

E. F.

(*Official character and description of E. F.*)

III.—Recognizance by a Guardian of Property and his Surety, after an Order appointing him subject to his giving Security.

Stamp as in case of a bond.

(*Short Title.*)

The senior Judge of the Chief Court of the Punjab [*or as the case may be*] has approved of and allowed this recognizance.

X. Y.,
Registrar.

C. D. (*the principal*), of (*residence and addition*), and *L. M.* (*the surety*), acknowledge themselves and each of them acknowledges himself to owe to the Secretary of State for India in Council the sum of Rs. [*to be regulated by the sum which the guardian is likely to receive during the currency of his periodical account*] to be paid to the said Secretary of State for India in Council; and, unless they pay the same, they, the said *C. D.* and *L. M.*, do and each of them doth grant for himself, his executors and administrators, that the said sum shall be levied and received from them and each of them and from their and his moveable and immoveable property.

Dated the day of 18 .

Whereas, by an order of the Court of , made by (*name the Judge*), in a certain matter there depending, intituled "In the matter of " [*recite the order appointing the guardian, subject to his giving security, and continue thus*] :—

And whereas (*name the Judge who has approved of the surety and recognizance*) has approved of the above-bounden *L. M.* as surety for the said *C. D.*, and hath also approved of the above-written recognizance with the underwritten condition as a proper security to be entered into by the said *C. D.* and *L. M.* pursuant to the said order, and in testimony of the said approbation, the Registrar [*or as the case may be*] of the said Court has signed an allowance in the margin thereof.

Now the condition of the above-written recognizance is such that, if the said *C. D.* shall duly account for every sum of money which he shall receive on account of the property of the said minor *A. B.* and the rents and profits and other income thereof, at such periods as the said Judge shall appoint, and shall duly pay the balances which shall from time to time be certified to be due from him as the said Court or Judge hath directed, or shall hereafter

direct, then the above recognizance shall be void, otherwise the same shall remain in force.

C. D. }
L. M. } Taken and acknowledged by the above-named *C. D.* and *L. M.* at in this day of 18 before me.

(*Signature and style of office of the officer by whom the recognizance is taken.*)

ACT No. VII of 1875.

Received the Governor General's assent on the 23rd February, 1875.

An Act to regulate Fisheries in Lower Burma.

Preamble.

WHEREAS the exclusive right of fishing in Lower Burma in such fisheries as are hereinafter mentioned belongs by the custom of the country to the Government:

And whereas it is expedient to provide for the protection of this right, and for conceding the enjoyment[a] of it to the public or to individuals gratuitously, or in consideration of fees or rent, and subject to suitable restrictions and conditions;

It is hereby enacted as follows:—

I.—Preliminary.

Short title.

1. This Act may be called the Burma Fisheries Act, 1875:

Local extent.

It extends to the territories[a] for the time being under the administration of the Chief Commissioner of Lower Burma.[a]

[*Commencement.*] *Rep. by Act XII of 1876, s. 1.*

Interpretation clause.

2. In this Act—

"Fish."

"fish" includes also shell-fish:

"Fishery."

"fishery" means any collection of water, running or still, tidal or non-tidal, which is itself of a permanent nature, or is connected with some waters of a permanent nature, and in which fish or turtle may be found. It includes the sea:

"To fish."

"to fish" includes to catch turtle or collect their eggs; and

"Fixed engine."

"fixed engine" means any fixed implement or engine for catching or for facilitating the catching of fish, and includes a net secured by anchors, or otherwise temporarily fixed to the soil.

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[a] The territories are now known as Lower Burma—see Act XX of 1886, s. 2 (*1*) (*b*), *infra*, p. 361, and the Chief Commissioner is styled Chief Commissioner of Burma—see Proclamation, dated 25th September, 1886, Gazette of India, 25th *idem*, Pt. I, p. 539.

II.—Rights of Fishery.

Right of fishery.

3. No right to fish in any fishery shall be deemed to have been acquired by the public or by any person, either previously to the passing of this Act or subsequently thereto, except in one of the modes hereinafter described:

Angling.

But nothing herein contained shall be held, nor shall the giving of any grant, lease, license or permission under this Act be held, to prevent the public from angling with a rod and line only in any fishery:

Proviso.

Provided that such angling may, in any case, with the previous sanction of the Chief Commissioner, be forbidden by a proclamation issued by the Deputy Commissioner of the district in which such fishery is situate for such time as may be fixed by such proclamation:

And nothing herein contained shall prejudice or derogate from any express grant of a right to fish heretofore made by the British Government.

Disposal of right of fishery.

4. The Deputy Commissioner of any district may, subject to such rules, conditions and restrictions as may be prescribed by the Chief Commissioner in this behalf, dispose of the right of fishing in any fishery situate within his district, or specially placed under his charge by the Chief Commissioner, in any one of the following modes, that is to say:—

(*a*) he may declare such fishery open to the public, or to the inhabitants of any town or village, or to any other class of persons:

(*b*) he may lease the exclusive right of fishing in such fishery to any person; or

(*c*) he may, where he has not disposed of the right of fishing in any of the foregoing modes, grant licenses to any number of persons to use nets, traps and other implements for fishing in such fishery;

and (subject as aforesaid) he may declare that any fishery shall cease to be a fishery for the purposes of this Act.

Declarations made before 1st April, 1875.

All such declarations, leases and licenses made and granted by the British Government before this Act comes into operation and then in force shall be deemed to have been respectively made and granted under this section.

Recovery of fees, rents, &c.

5. All fees, rents and other moneys due to Government in respect of any lease, license or permission granted under this Act may be recovered in the manner prescribed by the law for the time being in force for the recovery of arrears of revenue.*

III.—Erection of Weirs.

Weirs not to

6. No weir or other fixed obstruction, and no fixed engine tending to

* See Act II of 1876, ss. 45-51, *infra*, pp. 116 and 117.

hinder the movements of fish, or to interfere with the flow of the water, or to impede navigation, shall be erected, placed, maintained or used in any fishery, or in waters connected with any fishery, by a grantee or lessee, or by any other person whomsoever, without a special permission in that behalf under the hand of the Deputy Commissioner of the district in which such fishery is situate. be erected without sanction of Deputy Commissioner.

IV.—Penalties

7. Any person who commits any of the following offences, namely :— Penalties.

(*a*) fishes in any fishery not having a right to fish therein,

(*b*) erects, places, maintains or uses any fixed obstruction or fixed engine in a fishery, or in waters connected therewith, without being specially permitted to do so under section 6,

(*c*) puts or knowingly permits to be put, or causes or knowingly permits to flow, into any fishery, any solid or liquid matter to such an extent as to poison or kill, or to cause the water to poison or kill, fish,

(*d*) interferes with, or makes any demand in consideration of, the lawful use of the water of any fishery for purposes unconnected with the taking of fish,

shall be punished, for a first offence, with imprisonment for a term not exceeding three months, or a fine not exceeding two hundred rupees, or both;

and, for a second offence, with imprisonment for a term not exceeding six months, or a fine not exceeding five hundred rupees, or both.

And any obstruction or engine erected, placed, maintained or used in contravention of section 6, and any fish taken by means of such obstruction or engine, or otherwise in contravention of this Act, or of any rules made hereunder and for the time being in force, shall be forfeited. Forfeiture of obstructions.

And such obstruction or engine may be removed or taken possession of by the Deputy Commissioner or such person as he empowers in this behalf. Removal of obstructions.

And the expense (if any) of such removal may be recovered from the person erecting, placing, maintaining or using the obstruction or engine so removed, as if it was an arrear of revenue.[a]

V.—Subsidiary Rules.

8.[b] The Chief Commissioner may, from time to time, with the previous Power to make rules.

[a] See Act II of 1876, ss. 45-51, *infra*, pp. 116 and 117.

[b] For rules under s. 8, see Burma Gazette, 27th October, 1888, Pt. I, p. 486.

sanction of the Governor General in Council, make rules for all or any of the following purposes:—

(*a*) for the survey and demarcation of the limits of fisheries;

(*b*) for determining in which of the modes mentioned in section 4 the right to fish in each fishery shall be disposed of;

(*c*) for regulating the conditions on which, and the procedure by which, fisheries may be opened to the public or granted or let on lease to individuals;

(*d*) for fixing the rates at which, and the conditions on which, licenses to use implements for fishing may be granted;

(*e*) for settling the terms and conditions on which permission to erect, place, maintain or use fixed obstructions and engines in fisheries or waters connected therewith may be granted;

(*f*) for making and maintaining free gaps in weirs;

and generally to carry out the purposes of this Act.

Penalty for breach of rules.

9. The Chief Commissioner may, with the like sanction, in making any such rule, attach to the breach of it, in addition to any other consequences that would ensue from such breach, a punishment, on conviction before a Magistrate, not exceeding one month's imprisonment, or two hundred rupees fine or both.

Publication of rules.

10. All such rules shall be published in the Burma Gazette, and shall thereupon have the force of law.

THE BURMA LAND AND REVENUE ACT, 1876.

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THE SCHEDULE.—TOWNS IN WHICH LAND-RATE IN LIEU OF CAPITATION-TAX IS LEVIED.

ACT No. II OF 1876.

Received the Governor General's assent on the 18th January, 1876.

An Act to declare the law relating to interests in land and to regulate the assessment and collection of land-revenue, capitation-tax and other taxes in Lower Burma.

Preamble. WHEREAS it is expedient to declare the law relating to the acquisition by private persons of rights in land in the province of Lower Burma;

And whereas it is expedient also to consolidate and amend the law relating to the assessment and collection of land-revenue, capitation-tax and certain other taxes in the said province; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title. 1. This Act may be called the Burma Land and Revenue Act, 1876:

Local extent.

It extends to all the territories[a] now under the administration of the Chief Commissioner of Lower Burma[a] except the Hill District of Arakan, and except such other places as the said Chief Commissioner may from time to time, by notification in the Burma Gazette, and with the previous sanction of the Governor General in Council, exempt from its operation;

And it shall come into force on such date as the Chief Commissioner, with the previous sanction of the Governor General in Council, may direct by notification in the said Gazette.[b]

Repeal.

2. On and from the date on which this Act comes into force, Act XXXV of 1852 (*for the abolition of the Poll-tax within the towns of Akyab and Kyouk Phyoo in the province of Arakan, and for levying a tax on lands covered by dwelling-houses within those towns*), and all regulations and rules (if any) relating to any of the matters provided for by this Act, and then having the force of law, shall be repealed.

Interpretation-clause.

3. In this Act, unless there is something repugnant in the subject or context—

"possession":

(*a*) land is said to be in the possession of a person under this Act—

(1) when it is occupied by him, or by his servant, agent, tenant or mortgagee, or by some other person holding under him;

(2) when he, his servant, agent, tenant, mortgagee or other person holding under him has paid the revenue which fell due in respect of such land during the last preceding year of assessment as fixed under section 41;

(3) if such land, left fallow in the ordinary course of husbandry, was, when last cultivated, cultivated by him, his servant, tenant, agent or mortgagee, or by some other person holding under him:

Provided that no person shall be deemed to be in possession merely on the grounds mentioned in the second or third clause of this definition of any land which is occupied by a person not holding under him, or of any land which he has relinquished by a notice in writing presented to a revenue-officer at such time of the year as the Chief Commissioner may by rule from time to time appoint in this behalf:

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[a] The territories are now known as Lower Burma—see Act XX of 1886, s. 2 (*1*) (*b*), *infra*, p. 364, and the Chief Commissioner is styled Chief Commissioner of Burma—see Proclamation, dated 25th September, 1886, Gazette of India, 25th *idem*, Pt. I, p. 539.

[b] The Act came into force on 1st February, 1879—see Burma Gazette of that date, Pt. II, p. 29.

(*b*) "revenue-officer" means any person whom the Chief Commissioner may appoint, by name or as holding an office, to do— "revenue-officer":

(1) anything required by this Act to be done by a revenue-officer[a];

(2) anything to be done by a Government officer under this Act or under any rule made under this Act, and for the doing of which no agency is specially provided by this Act:

(*c*) "notification" means a notification published in the Burma Gazette. "notification".

PART II.

Of Rights over Land.

4. Nothing contained in this Part shall apply to the following:— Lands excluded from the operation of Part II—

(*a*) land included in any forest constituted "a reserved forest" under the law for the time being in force: reserved forests:

(*b*) land included in any fishery demarcated under the Burma Fisheries Act, 1875:[b] fisheries:

VII of 1875.

(*c*) the soil of any public road, canal, drain or embankment: public roads, &c.:

(*d*) land included within the limits of any town: towns:

(*e*) land appropriated to the dwelling-places of any town or village: dwelling-places:

(*f*) land included in any military cantonment: cantonments:

(*g*) land included in any civil station: civil stations:

(*h*) land belonging when this Act comes into force to the site of any monastery, pagoda or other sacred building, or of any school, and continuing to be used for the purposes of such monastery, pagoda, building or school. lands of religious and educational institutions.

The Chief Commissioner may from time to time by notification exclude any other land from the operation of this Part. Power to exclude other land.

5. When the boundaries of any lands exempt or excluded under section 4 from the operation of this Part need definition for the purposes of that section, and no other mode of defining them is provided by law, the Chief Commissioner shall cause them to be defined by the revenue-officer. Power to define boundaries of excluded lands.

If, before they are defined, any question arises as to whether any land is included within them, such question shall be decided by the revenue-officer,

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[a] As to classes of officers appointed under s. 3 (*b*) to do the acts required by this Act to be done by a revenue-officer, see Burma Gazette, 23rd June, 1888, Pt. I, p. 258.

[b] See *supra*, p. 97.

whose decision, subject to appeal and review as hereinafter provided, shall be final.

Rights which may be acquired over land.

6. No right of any description shall be deemed to have been or shall be acquired by any person over any land to which this Part applies, except the following:—

(*a*) rights created by any grant or lease made by or on behalf of the British Government;

(*b*) rights acquired under sections 27 and 28 of the Indian Limitation Act, 1871;[a] IX of 1871.

(*c*) rights created or originating in any of the modes hereinafter in that behalf specified;

(*d*) rights legally derived from any right mentioned in clauses (*a*), (*b*) and (*c*) of this section.

Status of landholder how acquired.

7. Except as provided in section 22, any person having been in possession of any culturable land for twelve years continuously, and having during that period regularly paid the revenue due thereon, or held the same under an express exemption from revenue, shall be deemed to have, upon the expiration of that period, acquired the status of a landholder in respect of such land:

Provided that such status shall not be deemed to have been acquired by any possession which terminated more than twelve years prior to the date on which this Act comes into force.

Explanation 1.—When land in the possession of one person comes immediately into the possession of another, by transfer or succession, the possession is deemed to be continuous, and the latter may, in reckoning his length of possession, add the possession of the former to his own.

Explanation 2.—When any revenue has been paid in respect of any land by any person holding such land under the person in possession thereof, such revenue shall, for the purposes of this section, be deemed to have been paid by the person so in possession.

Landholders' rights defined.

8. A landholder shall have a permanent heritable and transferable right of use and occupancy in his land, subject only—

(*a*) to the payment of all such revenue, taxes, cesses and rates as may from time to time be imposed in respect of such land under any law for the time being in force;

(*b*) to the reservation in favour of Government of all mines and mineral products, and of all buried treasure, with full liberty to work and search for the same, paying to the landholder only compensation for surface-damage as estimated by the revenue-officer.

[a] See Act XV of 1877, s. 2 and ss. 26 & 27.

Landholder out of possession when Act comes into force.

9. *First Clause.*—Any person having acquired the status of a landholder in respect of any land before the date of this Act coming into force, and having been out of possession of such land on the said date, may, within three years from the said date or within twelve years from the date on which he was last in possession, whichever first expires, proceed to recover possession of the said land in the manner hereinafter provided, that is to say :—

(*a*) if no other person is in possession of the same, he may resume possession thereof;

(*b*) if any other person is in possession of the same, he may apply to the revenue-officer to be reinstated in possession thereof.

Landholders relinquishing possession within three years from Act coming into force.

Second Clause.—Any person having the status of a landholder in respect of any land and being in possession of such land on the date on which this Act comes into force, and (except as provided in section 12) voluntarily relinquishing possession of such land within the three years next following such date, may, at any time before the expiry of the said period of three years, proceed to recover possession of the same in manner provided in the first clause of this section.

Forfeiture of their status by neglect to assert it.

Third Clause.—All persons entitled to resume possession of lands or to apply to the revenue-officer under the first or second clause of this section, and neglecting to resume possession or apply in manner aforesaid within the periods limited by the said clauses respectively, shall forfeit their status as landholders in respect of such lands.

Applications by them for possession how dealt with.

10. On receiving any application under section 9, it shall be in the discretion of the revenue-officer, after such enquiry as he thinks fit to make, either to reject such application or to put the applicant in possession of the land comprised in his application.

Suits by them on application being rejected.

Any applicant whose application is rejected under this section may, within two months from the date of such rejection, institute a suit in the Civil Court to recover possession of the land comprised in his application.

Forfeiture of their status by neglect to institute such suits.

Any such applicant who neglects to institute such a suit within the said period of two months shall forfeit his status of landholder in respect of such land.

Landholders relinquishing possession after three years from Act coming into force.

11. Any landholder who, except as provided in section 12, voluntarily relinquishes the possession of any land after the expiry of three years from the date on which this Act comes into force, shall at once forfeit his status of landholder in respect of such land.

Right of landholder to make over land

12. Whenever any person in possession of land, and claiming the status of a landholder in respect thereof, desires temporarily to relinquish the possession

temporarily to revenue-officer;

of the same, he may present a petition to the revenue-officer, requesting him to take over such land.

The revenue-officer on receipt of such petition, if it appears to him on such enquiry as he thinks fit to make that the petitioner is entitled to such status, shall cause a notice to be published in such manner as the Chief Commissioner may by rule prescribe, declaring that he has taken over the land; and the land shall thereupon be at his disposal to be let on lease or otherwise dealt with, subject to the rights of any third parties over the land and to the right of the petitioner next hereinafter reserved.

and to recover possession within twelve years.

13. The petitioner may, at any time within twelve years from the date on which the land has been taken over by the revenue-officer, apply to the revenue-officer to reinstate him in possession of the same.

On receiving such application, the revenue officer shall, in such manner as may be provided by rules made under this Act and in force for the time being, give notice of the application to any person who may be in occupation under him, and shall in due time proceed to eject him, and shall put the applicant in possession of the land:

Provided that no person shall be ejected under this section from any land which, before receiving notice from the revenue-officer of the said application, such person or his predecessor in interest has in any way prepared for cultivation, until the person sought to be ejected has gathered in his crop:

Provided also that no person shall be so ejected from any land which he or his predecessor in interest has planted, drained, embanked or otherwise permanently improved, until he has been paid by the applicant the value of such improvements at the date of ejectment, such value to be determined, in case the parties differ, by order of the revenue-officer.

Applications to recover possession by persons claiming as succeeding to the rights of the petitioner.

14. If any person applies for possession of land under section 13, alleging that he is the successor in interest of the petitioner from whom such land was taken over by the revenue-officer, the revenue-officer may, in his discretion, reject such application, or proceed thereon under section 13 as if it were an application by the said petitioner, and the person from whom such land has been taken, or any other person, may sue to establish his title to such land.

Declaration and record of original acquisition of landholder's status.

15. Any person being in possession of any land and asserting that he himself, or any other person through whom he claims, acquired the status of a landholder in respect of such land in the manner provided by section 7, may apply to the revenue-officer to record, in a register to be provided for this purpose, a declaration of such status having been so acquired. And the revenue-officer, if it appears to him after a notice of such application has been published for such period and in such manner as the Chief Commissioner may by

rule prescribe, and after such enquiry as the revenue-officer may think fit to make, that such status was so acquired, shall record a declaration to that effect, and furnish the applicant with a certificate of the same having been recorded.

Cancellation of such declarations and records.

16. If, within five years from the date on which a declaration has been recorded under section 15, the revenue-officer is satisfied that it is erroneous, he may cancel it:

Provided that no such declaration shall be so cancelled until a notice of the intention to cancel it has been published for such period and in such manner as the Chief Commissioner may from time to time by rule direct.

Fresh declarations.

While any such declaration remains on the register uncancelled, no fresh declaration inconsistent therewith shall be recorded in such register.

Questions as to original acquisition or as to the loss of landholder's status how to be dealt with by Civil Courts.

17. Whenever a question arises in any proceeding before any Civil Court as to whether any person acquired the status of a landholder in respect of any land in the manner provided by section 7, and it appears that a declaration of the fact of such status having been acquired by him has been made under section 15 not less than five years before the commencement of such proceeding and is still uncancelled, the Court shall decide in accordance therewith.

Whenever any such question arises in any such proceeding and it appears that no such declaration has been so made, or, if made, that it has been cancelled;

and whenever any question arises whether the status of a landholder, having been acquired, has been subsequently lost,

the Court shall refer such question to the revenue-officer, and shall give jugdment in accordance with his decision thereon:

Provided that, where any party desires to appeal from the decision of the revenue-officer on any question so referred to a revenue-officer of higher grade empowered to hear such appeal by the rules for the time being in force, the Court shall, on such conditions as to the furnishing of security or otherwise as it thinks fit, defer its judgment so as to admit of such appeal being preferred, and, in the event of a decision being given in appeal different from that given by the revenue-officer to whom the question was originally referred, shall give judgment in accordance with the decision pronounced in appeal.

Power to make rules for the disposal of available lands.

18. The Chief Commissioner may from time to time make rules for the disposal by way of grant or otherwise of any land over which no person has a right of either of the classes specified in clauses (*a*) and (*c*) of section 6.

Such rules may provide among other matters for the following:—

(*a*) the amount or kind of interest to be created in such land, and the conditions (if any) subject to which such interest may be conferred;

(*b*) the mode in which grants and other dispositions of the land may be made;

(*c*) the total or partial exemption, either absolutely or subject to conditions, of the land from revenue for a term of years or for any life or lives, or during the maintenance of any institution;

(*d*) the realization of any money payable in consideration of the grant or other disposition, or of any penalty payable on breach of a condition annexed to such grant or disposition, as if it were an arrear of revenue due in respect of the land by the person taking under the grant or disposition, his legal representatives or assigns.

Temporary occupation of available land.

19. The Chief Commissioner may also from time to time make rules to regulate the temporary occupation of such land as last aforesaid, and may empower any revenue-officer to eject any person occupying, or continuing to occupy, such land in contravention of such rules.

Allotment of grazing-grounds.

20. The Chief Commissioner shall from time to time as occasion requires make rules for the allotment from the land referred to in section 18 of grazing-grounds to the inhabitants of any village in the neighbourhood whom he considers to stand in need of such allotment, and for regulating and controlling the enjoyment of such grazing-grounds by persons permitted to resort thereto.

Allotments to toungya-cutters.

21. The Chief Commissioner shall also make rules from time to time and for different places as occasion requires—

for the allotment from the land referred to in section 18 for the use of tribes or families practising toungya-cultivation, of areas suitable for such cultivation of sufficient extent and situated in localities reasonably convenient for the purposes of the persons to whom they are allotted,

and for regulating and controlling the enjoyment of land so allotted by persons permitted to resort to the same.

Bar to acquisition of rights over lands disposed of or allotted under sections 18, 20 and 21.

22. No person shall acquire, by length of possession or otherwise, any right over lands disposed of or allotted under section 18, section 20 or section 21, beyond that which is given by the rules made under the said sections respectively.

PART III.

Of Revenue and Taxes.

A.—Of Land-revenue.

Land liable

23. All culturable land, and all land which is culturable when this Act

comes into force but which subsequently becomes unculturable in consequence of the erection of buildings or otherwise by the act of man, to land-revenue-assessment.

and all land assessed to land-revenue when this Act comes into force,

shall be liable to be assessed to land-revenue in manner hereinafter mentioned.

But nothing in this section shall apply to—

(*a*) land which, when this Act comes into force, belongs to the site of any monastery, pagoda or other sacred building, or of any school, and which continues to be used for the purposes of such monastery, pagoda, building or school;

(*b*) land exempt from assessment under the express terms of any grant made by or on behalf of the British Government;

(*c*) land in respect of which a toungya-tax is imposed under section 33;

(*d*) land appropriated to the dwelling-places of any town or village and exempted from the operation of the former part of this section by order of the Chief Commissioner, which order the Chief Commissioner is hereby empowered to make from time to time.

Mode and amount of assessment.

24. The assessment referred to in section 23 shall be either—

(*a*) by annual rates per acre or other superficial measure of the land, or

(*b*) by annual rates on trees growing on the land.

The Chief Commissioner may from time to time make rules for fixing such rates and determining under what circumstances each description of rate is to be imposed.

Subject to such rules, the nature and amount of such assessment shall be in the discretion of the revenue-officer:

Provided that no assessment shall be made in derogation of the terms of any grant made by or on behalf of the British Government.

Rates may be altered.

25. Subject to the rules made under section 24 and for the time being in force, and except as provided in that section and in sections 28 and 42, the rates payable in respect of any land may be altered from time to time as the Chief Commissioner may direct.

Right to a settlement.

26. Any person in possession of any culturable land which is liable to be assessed to land-revenue may apply to the revenue-officer to make a settlement with him of such land.

If such person appears to have a permanent heritable and transferable right of use and occupancy in the land, the revenue-officer shall offer him a settlement of the nature hereinafter described.

If such person does not appear to have such a right, it shall be in the discretion of the revenue officer to offer or refuse such settlement.

Nature of settlement.

27. The settlement offered to the applicant may be either—

(*a*) a settlement of a single annual sum payable in respect of the whole land, or

(*b*) a settlement of certain annual rates per acre or other superficial measure of land.

In either case the settlement may provide that, for any additional land situate within certain local limits which the applicant may cultivate (not being land acquired by him by transfer or succession), he shall not be required to pay during the continuance of such settlement any revenue whatever or any revenue in excess of rates fixed thereby for such additional land.

The Chief Commissioner shall by rules determine the cases in which each of the said descriptions of settlement shall be offered, and the general principles on which the amount or rate of the revenue payable thereunder shall be fixed.

Subject to such rules, the nature and stipulations of the settlement to be offered in each case shall be in the discretion of the revenue-officer.

Rights conferred by settlement.

28. When a settlement of any land offered under sections 26 and 27 has been accepted, neither the person on whose application such settlement has been made, nor any person succeeding him in possession of the land by transfer or succession, nor any person holding under him or under a person so succeeding him, shall, during the term of such settlement, be held liable to pay any revenue in respect of such land beyond that fixed by the settlement.

But no person shall be deemed to have acquired any right to or over any land, as against any other person claiming rights to or over the same land, merely on the ground that a settlement of such land has been made on his application, or on the application of some person through whom he claims.

Term of settlement.

29. The settlement shall be made for such term as the Chief Commissioner may from time to time by rule direct.

The settlement of any land shall terminate at the close of any year of assessment prescribed under section 41, if the person in possession of such land and entitled under section 28 to the benefit of such settlement, not less than three months before the close of such year presents to the revenue-officer a notice in writing declaring that he desires to rescind the settlement, and at the same time pays to him all revenue payable in respect of the said land to the close of such year.

If any such person omits to give the notice and make the payment required by this section, he shall continue liable for the revenue payable from time to time under the settlement, although he may have relinquished possession of the land.

Continuance

30. If the term for which a settlement of any land has been made elapses

before a new settlement thereof is made, any person who was entitled to the benefit of the expired settlement at the time of its expiration and continues in possession of such land, and any person holding under him or claiming through him without an interruption of possession, shall be entitled to the benefit, and be bound by the stipulations, of the expired settlement until a new settlement of such land is made: of expired settlement until new settlement is made.

Provided that the said stipulations shall cease to be in force at the close of any year of assessment as aforesaid, if the person in possession, not less than three months before the close of such year, presents to the revenue-officer a notice in writing requiring that they should so cease.

B.—Of the five per cent. cess.

31, 32. [*A five per cent. cess to be levied—how to be applied.*] *Rep. by Act II of 1880, s. 3.*

C.—Of the Toungya-tax.

33. The Chief Commissioner may direct that, in lieu of the revenue assessable on any land under toungya-cultivation, there shall be collected an annual tax, either on each male person who has completed his age of eighteen years, or on each family of persons, taking part in the cultivation of such land at any time during the year of assessment as fixed under section 41. Toungya-tax.

The rates of such tax may be fixed from time to time by the Chief Commissioner, but shall not exceed the following, that is to say:—

on each male cultivator, two rupees;

on each family of cultivators, two rupees.

D.—Of the Capitation-tax and the Land-rate in lieu thereof.[*]

34. A capitation-tax shall be payable by all males between the ages of eighteen and sixty years, at such rates as the Chief Commissioner may from time to time by notification direct: Capitation-tax.

Provided that such rates shall not exceed the following, that is to say:—

on married men, five rupees a year;

on men who have no wives, two rupees eight annas a year:

Provided also that this tax shall not be payable—

(*a*) by the residents of any of the towns mentioned in the schedule hereto annexed;

(*b*) by the residents of any other town on which the Chief Commissioner may impose a land-rate under section 35.

[*] Persons liable to pay income-tax under Act II of 1886 are exempted from payment of capitation-tax or land-rate in lieu thereof levied under this Act—see Act II of 1886, s. 48.

Land-rate in lieu of capitation-tax.

35. In the towns mentioned in the schedule hereto annexed, and in such other towns as the Chief Commissioner may from time to time by notification direct, there shall be levied, instead of the capitation-tax, an annual rate upon land to be fixed from time to time by the Chief Commissioner by notification, but not to exceed the following, that is to say:—

on land covered with buildings, one pie and a half per square foot;

on land not covered with buildings, three rupees per acre.

The boundaries of the towns in which such rate is leviable shall be fixed from time to time, for the purposes of this section, by the Chief Commissioner, by notification, and may be so fixed as to include any suburbs of such towns.

Explanation.—The rate leviable on any land under this section shall be in addition to any land-revenue payable thereon.

Exemption from capitation-tax and land rate.

36. The Chief Commissioner may, by notification,—

(*a*) exempt any person or class of persons, or the residents of any particular locality, from the payment of capitation-tax;

(*b*) exempt any lands, or any class of lands, throughout the province or in any part thereof, from land-rate in lieu of capitation-tax;

(*c*) revoke any such exemption.

E.—Of personal Liability for certain Revenue and Taxes.

Personal liability for land-revenue and land-rate in lieu of capitation-tax.

37. The amount payable on account of revenue[a] or land-rate in lieu of capitation-tax on any land for any year of assessment shall be due jointly and severally from all persons who have been in possession of such land at any time during such year, and all persons who have held under them as tenants, mortgagees or conditional vendees.

Personal liability for tax on families.

38. When a tax per family of cultivators of any land is imposed, the amount due for any year of assessment from each family shall be due jointly and severally from all males of such family who at any time during such year, being then above the age of eighteen years, took any part in the cultivation of such land.

F.—Of the Manufacture of Salt, and of Licenses to prepare and collect Cutch, Beeswax, &c.

Power to make rules for—

39. The Chief Commissioner may from time to time make rules—

licensing salt manufacture;

(*a*) for granting licenses to manufacture salt;

(*b*) [*imposing salt-duty;*] *Rep. by Act XII of 1882, s. 2.*

[a] Certain words in s. 37, repealed by Act II of 1880, s. 3, have here been omitted.

(*c*) for compounding with any holder of a license for the payment by him of an annual sum assessed upon the plant employed by him, in lieu of the duty which would be payable by him[a] on the salt produced with the aid of such plant. composition with licensees.

Any person who, without a license for the time being in force,— Penalty for manufacturing or storing salt without a license.

(*d*) engages in the manufacture of salt;

(*e*) owns works for the manufacture of salt; or

(*f*) stores salt exceeding such quantity as the Chief Commissioner may from time to time by notification fix in this behalf;

shall be liable on conviction before a Magistrate to a fine not exceeding fifty rupees, and to a further fine of ten rupees for every day after a first conviction under this section in which he continues such manufacture or storage:

And all salt in respect of which a conviction under this section has taken place, and all materials and implements used for the purpose of manufacturing such salt, shall be liable to confiscation by order of the convicting Magistrate.

40. The Chief Commissioner may from time to time make rules— Power to make rules regarding collection and preparation of cutch, beeswax, &c.

(*a*) for granting licenses to prepare or collect, or farms of the right of preparing or collecting, cutch, beeswax, honey, lac, cardamoms and other forest-produce or edible birds' nests, upon land over which no person has a right of either of the classes specified in clauses (*a*) and (*c*) of section 6:

(*b*) for fixing the amount of fees to be charged in respect of such licenses or farms.

G.—Miscellaneous.

41. The year of assessment of any revenue,[b] rate, tax or fee leviable under this Part shall commence on such day of the calendar year as the Chief Commissioner may from time to time by rule prescribe. Year of assessment.

42. Notwithstanding anything contained in this Part, no enhancement made in any such revenue, rate, tax or fee shall take effect until the commencement of the year of assessment following that in the course of which it is made. When increase of rates takes effect.

PART IV.

Of Arrears and the Mode of recovering them.

43. Every sum payable under this Act on account of any revenue, tax,[b] Revenue, &c.,

[a] Certain words in s. 39, cl. (*c*), repealed by Act XII of 1882, s. 2, have here been omitted.
[b] The word "cess" in ss. 41 and 43, repealed by Act II of 1880, s. 3, has here been omitted.

when due, where and to whom payable.

rate, fee, duty or composition, shall fall due on such date, and shall be payable at such place and to such person as the Chief Commissioner may from time to time by rule direct.

"Arrear" and "defaulter" defined.

44. When any such sum has fallen due, and a written notice of demand for it has been served on any one of the persons liable for it, or published in such manner as the Chief Commissioner may from time to time by rule direct, and ten days have elapsed from the service or publication of such notice without such sum having been paid, such sum shall be deemed to be an arrear; and every person liable for it shall be deemed to be a defaulter.

Proceedings against defaulters for recovery of arrear.

45. An arrear may be realized as if it were the amount of a decree for money passed against the defaulter in favour of any revenue-officer whom the Chief Commissioner may from time to time appoint in this behalf by name or as holding any office.

Proceedings with a view to the realization of such arrears may be instituted by such officer before any other revenue-officer whom the Chief Commissioner may from time to time appoint by name or as holding any office; and, except in so far as the Chief Commissioner may otherwise by rule direct, such other officer may exercise all the powers conferred on, and shall conform to all rules of procedure prescribed for, a Court executing a decree by the Code of Civil Procedure:[a] XIV of 1882.

Provided that—

except when execution is applied for against a defaulter who has absconded, or, who is reasonably believed to be about to abscond,

the officer before whom proceedings are instituted under this section shall, before issuing any process of execution against a defaulter, cause a notice to be served on him in the manner prescribed for the service of summons on defendants in civil suits, requiring him either to pay the amount of the arrear or to appear on a day fixed in the notice and show cause why such amount should not be realized from him.

If on the day so fixed such amount has not been paid and the defaulter does not appear, or appearing fails to show cause as aforesaid, the said officer may order the process to issue forthwith.

Proceedings against the land.

46. Instead of, or in addition to, the proceedings which may be instituted under section 45, a revenue-officer empowered in this behalf by the Chief Commissioner may, when the arrear is one of land-revenue[b] or land-rate in

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[a] Now Act XIV of 1882—see s. 3, *ibid.*

[b] Certain words in s 46, repealed by Act II of 1880, s. 3, have here been omitted.

lieu of capitation-tax, proceed against the land on which such arrear has accrued as next hereinafter provided.

Where there is a permanent heritable and transferable right in such land.

47. If such officer finds on enquiry that there exists any permanent heritable and transferable right of use and occupancy in the land, he may sell by public auction such right in the whole of the land, or in such portion thereof as he may deem sufficient, for the realization of the arrear.

The proceeds of such sale shall be applied in the first place in liquidation of the arrear, and, in the event of there being any surplus remaining, the revenue-officer shall, if he is satisfied as to the right of any person claiming such surplus, pay the amount thereof to such person, and, if he is not so satisfied, shall hold the amount in deposit for the person who may ultimately succeed in due course of law in establishing his title thereto.

Title conferred by purchase at sale under section 47.

48. The purchaser at a sale held under section 47 shall be deemed to have acquired the right offered for sale, free from all encumbrances created over it and from all subordinate interests derived from it, except such as may be expressly reserved by the revenue-officer at the time of sale.

Proceedings against the land where no permanent heritable and transferable right exists.

49. If the revenue-officer proceeding against the land finds on enquiry that no permanent heritable and transferable right of use and occupancy exists therein, he may, by proclamation published on the land in such manner as the Chief Commissioner from time to time by rule directs, declare that he has taken possession of such land on behalf of the Government, and may summarily eject any person found in occupation thereof.

Effect of proclamation published under section 49.

50. When a proclamation is published under section 49 in respect of any land over which any private rights of any description exist, such land shall be deemed to have been, from the date of such proclamation, vested in the Government free from all such rights as have not been expressly reserved by the terms of such proclamation.

Costs of proceedings for recovery of arrears.

51. All costs of any proceeding under this Act for the recovery of an arrear may be recovered as if they formed part of such arrear.

Proceedings against defaulting revenue-officers.

52. If a revenue-officer has reason to believe that a revenue-officer subordinate to him who has collected any sum due under this Act has absconded or is about to abscond without accounting for such sum, he may issue a warrant for the apprehension of such subordinate officer and proceed against him or cause proceedings to be instituted against him as if he were a defaulter in the amount so collected.

Proceedings against sureties of defaulters and revenue-officers.

53. Any person who has become liable for any amount as surety for a defaulter or revenue-officer may be proceeded against as if he himself were a defaulter in such amount.

PART V.

MISCELLANEOUS.

Erection and repair of boundary-marks.

54. A revenue-officer may, by a notice in writing duly served in accordance with rules to be made under this Act, require any person liable for the revenue of any land, or entitled to hold such land free of revenue, to erect boundary-marks sufficient for defining the limits of such land, or to repair any such boundary-marks already existing; and, if such person fails to comply with his requisition within a period to be specified in the notice, may cause the work to be done, and recover the cost thereof as if it were an arrear of revenue due in respect of the land.

Appeals.

55. Appeals shall lie from orders and decisions given under any provision of this Act, in such cases, to such officers and subject to such limitations as to time, and such other conditions, as the Chief Commissioner may from time to time by rule determine:

Provided that decisions by an officer of a grade lower than that of a Commissioner of a division in or on the following matters, claims and questions shall not be final (namely):—

(*a*) matters disposed of by revenue-officers under section 5, section 10 and sections 12 to 17, inclusive, except orders as to the value of improvements;

(*b*) claims to occupy or resort to lands under sections 19, 20 and 21, and disputes as to the use or enjoyment of such lands between persons permitted to occupy or resort to the same;

(*c*) questions as to whether any land or any person is liable to be assessed to any revenue, [a] tax or rate;

(*d*) questions as to the mode or principle of assessment of any revenue, [a] tax or rate, or as to the amount assessed;

(*e*) questions as to the right to a settlement of land-revenue, or the nature or term of the settlement to be offered;

(*f*) questions as to the validity or effect of any settlement, or as to whether the conditions of any settlement are still in force;

(*g*) questions as to the liability of any person under sections 37 and 38;

(*h*) questions as to whether any revenue, [a] tax or rate is in arrear;

(*i*) questions as to the legality of any process issued under section 45;

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[a] The word "cess" in s. 55, cls. (*c*), (*d*) and (*h*), repealed by Act II of 1880, s. 3, has here been omitted.

(*j*) questions as to the validity of a sale under section 47, or as to the effect of a proclamation under section 49:

Provided also that in all cases the Chief Commissioner shall have power to call for and review the proceedings, if he thinks fit to do so, and pass such order thereon consistent with the provisions of this Act as he thinks fit.

Bar to jurisdiction of Civil Courts.

56. Except as hereinbefore expressly provided, no Civil Court shall exercise jurisdiction as to any of the following matters (namely):—

(*a*) matters, claims and questions mentioned in the first proviso to section 55;

(*b*) claims to any office connected with the revenue-administration, or to any emolument appertaining to such office, or in respect of any injury caused by exclusion, suspension or removal therefrom;

(*c*) claims to have allotments made under section 20 or section 21 and objections to the making of such allotments;

(*d*) claims to a remission or refund of any revenue, [a] tax, rate, fee duty or composition payable or paid under this Act;

(*e*) questions as to the right to, or amount of, any compensation for improvements awardable under section 13.

Additional powers which may be conferred on revenue-officers.

57. The Chief Commissioner may, subject to any restrictions from time to time imposed by the Governor General in Council, invest any revenue-officer by name or as holding any office with any of the following powers, in addition to the powers directly conferred on revenue-officers by this Act, to be exercised by him in any part of British Burma or in any class of cases in any such part:—

(*a*) power to enter upon any land and to survey, demarcate or make a map of the same;

(*b*) power to cut and thresh the crop on any land and weigh the grain with a view to estimating the capabilities of the soil;

(*c*) any power exercised by a Civil Court in the trial of suits;

(*d*) power to delegate the exercise of any power, or the performance of any duty, to a subordinate revenue-officer;

(*e*) power to review any decision or order given by a revenue-officer which is not open to appeal, or from which, if open to appeal, no appeal has been preferred;

(*f*) power to call for the proceedings of any subordinate revenue-officer and review any order or decision given therein which is not open to appeal, or from which, if open to appeal, no appeal has been preferred.

Addition

58. In addition to the other matters for which the Chief Commissioner

[a] The word "cess" in s. 56, cl. (*d*), repealed by Act II of 1880, s. 3, has here been omitted.

powers to make rules.

is empowered to make rules by this Act, he may from time to time make rules—

(*a*) for the assessment and collection of all revenue and of every [a] tax, rate, fee, duty and composition leviable under this Act;

(*b*) to determine the person by whom, and the time, place and manner at or in which, anything to be done under this Act, and for which no express provision is made in these respects, shall be done; and generally to regulate the procedure of revenue-officers in all cases;

(*c*) to provide for the investigation by the higher revenue-officers of charges of misconduct preferred against revenue-officers of lower grade;

(*d*) to determine the fees to be charged for the service of process issued under this Act, and the mode in which such fees shall be realized;

(*e*) to regulate the costs in all proceedings before revenue-officers, and to provide for their realization as if they were arrears of land-revenue;

(*f*) as to making advances of money to agriculturists for the purchase of seed and cattle, for the construction, maintenance and repair of dwelling-houses and other buildings, and for other such purposes not coming within the scope of the Land Improvement Act, 1871; XXVI of 1871.

(*g*) for the recovery of advances made under clause (*f*) of this section from the persons to whom they were made or their legal representatives; and

(*h*) generally to carry out the provisions of this Act.

Penalty for breach of rules.

59. The Chief Commissioner may, in making any rule under this Act, attach to the breach of it, in addition to any other consequences that would ensue from such breach, a punishment, on conviction before a Magistrate, not exceeding one month's imprisonment, or two hundred rupees fine, or both.

Publication of rules.

60. All rules made by the Chief Commissioner under this Act shall, when sanctioned by the Governor General in Council, be published in the Burma Gazette, and shall thereupon have the force of law.

Force of rules.

Consolidation and republication of rules.

61. The Chief Commissioner shall at least once in every three years cause all rules for the time in force under this Act to be arranged in some convenient order, according to their subject-matter, consolidated, and, where necessary, amended.[b]

The rules so arranged, consolidated and amended shall, after being sanctioned by the Governor General in Council, be published in the Burma

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[a] The word "cess" in s. 58, cl. (*a*), repealed by Act II of 1880, s. 3, has here been omitted.

[b] For consolidated rules under s. 61, see Burma Gazette, 24th April, 1886, Pt. I, p. 151, and for amendments of the same, see Burma Gazettes, 23rd June, 1888, Pt. I, p. 258, 7th July, 1888, Pt. I, p. 274, 11th August, 1888, Pt. I, p 366, 22nd September, 1888, Pt. I, p. 426, and 6th October 1888, Pt. I, p. 445.

Gazette, and upon such publication all previous rules under this Act shall cease to be in force.

THE SCHEDULE.

(*See sections 34 and 35.*)

Towns in which land-rate in lieu of capitation-tax is levied :—

Rangoon.	Prome.
Bassein.	Tounghoo.
Thyetmyo.	Akyab.

Kyouk Phyoo.

ACT No. XIII OF 1877.

Received the Governor General's assent on the 28th June, 1877.

An Act to provide for the execution of works urgently required in connection with embankments in Lower Burma.

WHEREAS it is expedient to provide for the execution of works urgently required in connection with embankments in Lower Burma; It is hereby enacted as follows :— Preamble.

1. This Act may be called the Burma Embankment Act, 1877. Short title.

It extends to all the territories[a] for the time being under the administration of the Chief Commissioner of Lower Burma[a]; Local extent.

And it shall come into force on the passing thereof. Commencement.

2. In this Act— Interpretation-clause.

"embankment" means any embankment constructed for the purpose of excluding, regulating or retaining water, and includes all earthen walls, dams, canals, drains, piers, groins, sluices, buildings, water-gauges, bench-marks and other works subsidiary to any such embankment; and "Embankment."

"Embankment-officer," used with reference to an embankment, means the officer appointed by the Chief Commissioner, by notification in the Burma Gazette, to carry out this Act in respect of such embankment. "Embankment-officer."

3. Whenever the embankment-officer has reason to believe that, unless some work is quickly executed in connection with an embankment, loss of life or extensive damage to property will ensue, and that the labourers or Circumstances under which this Act may be put in operation.

[a] The territories are now known as Lower Burma—see Act XX of 1886, s. 2 (*l*) (*b*), *infra*, p. 364, and the Chief Commissioner is styled Chief Commissioner of Burma see Proclamation, dated 25th September, 1886, Gazette of India, 25th *idem*, Pt. I, p. 539.

materials required for the execution of such work cannot be obtained in the ordinary course in time to enable him to execute such work with the expedition necessary in order to avert such loss or damage, he may, by order under his hand, direct that the provisions of this Act shall be put into operation for the execution of such work; and thereupon—

Power to impress labour.

(*a*) every able-bodied person who resides in the neighbourhood of such embankment, and whose name appears in the list hereinafter mentioned, shall, if required to do so by such officer or by any person authorized by him in this behalf, be bound to assist in the execution of such work by labouring thereon as such officer or any person authorized by him in this behalf may direct; and

Power to take materials.

(*b*) such officer or any person authorized by him in this behalf may enter into and upon any immoveable property in the said neighbourhood and take possession of, appropriate and remove any trees or bamboos, whether standing or not, and any timber, mats, rope or other materials found in or upon such property, and use the same for the purposes of such work.

List of labourers.

4. Subject to such rules as the Local Government may from time to time, with the previous sanction of the Governor General in Council, prescribe in this behalf, the Deputy Commissioner shall prepare a list of the persons liable to be required under section 3, clause (*a*), to assist as aforesaid, and may from time to time add to or alter such list or any part thereof.

Payment for labour impressed and materials taken.

5. All persons labouring, or detained for the purpose of labouring, in compliance with a requisition made under section 3, or whose materials may be taken under that section, shall, as soon as may be reasonably practicable, be paid by the embankment-officer for their labour and detention, or for such materials (as the case may be), at such rates, not being less than the highest market-rates for similar labour or materials for the time being prevailing in the said neighbourhood, as the Chief Commissioner may from time to time by written order direct.

Compensation for damage done in taking materials

6. When, from the removal of any trees, bamboos or other materials under section 3, any damage, over and above the price payable for such materials under section 5, results directly to any person, the embankment-officer shall pay to such person such sum as may be agreed upon as compensation for such damage or, in case of dispute as to the amount so to be paid, as the Deputy Commissioner of the district may award, subject to such rules as to appeal or otherwise as the Chief Commissioner may from time to time prescribe in this behalf.

Penalties for trespass on embankments, &c.

7. Where an embankment-officer has been appointed for any embankment, any person who, without the permission of such officer,—

(*a*) grazes any cattle or allows any cattle under his charge to trespass on such embankment, or

(*b*) cuts or roots out any trees, shrubs or grass growing on such embankment, or

(*c*) obstructs any drain or sluice connected with such embankment,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Explanation.—In this section, clause (*a*), "cattle" includes also elephants, buffalos, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids.

Certain persons to be deemed public servants.

8. Every embankment-officer and every person authorized by an embankment-officer to act under section 3 shall be deemed to be a "public servant" within the meaning of the Indian Penal Code.[a]

XLV of 1860.

ACT No. IX OF 1879.

Received the Governor General's assent on the 23rd May, 1879.

An Act to amend the law relating to Coast-lights in the eastern part of the Bay of Bengal.

Preamble.

WHEREAS it is expedient to increase the coast-light dues paid under the provisions of Act No. XIII of 1867 (*An Act to provide for the establishment and maintenance of Coast-lights in the eastern part of the Bay of Bengal*), and to render chargeable with coast-light dues certain vessels which are not now so chargeable; It is hereby enacted as follows:—

Preliminary.

Short title.

1. This Act may be called the Burma Coast-lights Act, 1879.

Commencement.

It shall come into force on the first day of July, 1879;

Local extent.

And it shall extend to the territories respectively administered by the Governors of Fort St. George and Bombay in Council, the Lieutenant-Governor of Bengal and the Chief Commissioners of Lower Burma[b] and the Andaman and Nicobar Islands.

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[a] The rest of s. 8, repealed by Act XI of 1889, s. 2 (*1*), has here been omitted.

[b] The territories are now known as Lower Burma—see Act XX of 1886, s. 2 (*1*) (*b*), *infra*, p 364, and the Chief Commissioner is styled Chief Commissioner of Burma—see Proclamation, dated 25th September, 1886, Gazette of India, 25th *idem*, Pt. I, p. 539.

But nothing herein contained shall apply to any vessel belonging to or in the service of Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State.

Repeal.

2. Act No. XIII of 1867 (*to provide for the establishment and maintenance of Coast-lights in the eastern part of the Bay of Bengal*) is hereby repealed.

But any appointment made under the said Act shall be deemed to have been made under this Act.

Interpretation-clause.

3. In this Act, unless there is something repugnant in the subject or context,—

"Customs-Collector."

"Customs-Collector" means a Customs-Collector appointed under the Sea Customs Act, 1878, and includes any person appointed by the Local Government by name or in virtue of his office to discharge the functions of a Customs-Collector under this Act at any port: VIII of 1878.

"Vessel."

"vessel" includes anything made for the conveyance by water of human beings or of property:

"Master."

"master," when used in relation to any vessel, means any person (except a pilot or harbour-master) having, for the time being, the charge or control of such vessel:

"Voyage."

"voyage" means the whole distance between a vessel's place of departure and her final place of arrival; but the return of a vessel from any place shall, notwithstanding the terms of any charter-party, be deemed a distinct voyage.

Coast-light Dues.

Coast-light dues payable in respect of vessels of fifty tons.

4. For the purpose of establishing and maintaining coast-lights in the eastern part of the Bay of Bengal, a toll, hereinafter called "coast-light dues," shall be paid in respect of every vessel of the burden of fifty tons and upwards making any voyage mentioned in the schedule hereto annexed, at the rate of one anna and six pie per ton of burden:

Provided that such vessel sails from or enters during the course of, or at the termination of, any such voyage a port in British India, or takes in, or discharges, cargo off the coast of British India.

Dues when payable.

5. The said coast-light dues shall become due and payable—

(*a*) in the case of a vessel clearing out of a port in British India upon any such voyage—previous to the grant of any port-clearance;

(*b*) in the case of a vessel entering a port in British India in the course, or at the termination, of any such voyage—immediately upon her entering such port:

Provided that the said dues shall not be levied more than once on any vessel in the course of the same voyage.

Power to vary rates of dues.

6. The Governor General in Council may from time to time, by notification in the Gazette of India, reduce or raise the rate of coast-light dues in respect of all vessels or any particular class of vessels:

Proviso.

Provided that such rate shall not in any case exceed the rate fixed by section 4.

Collection of dues.

7. The Customs-Collector shall collect the coast-light dues,

Voucher to be given.

and shall grant to the person paying the same a voucher in writing under his hand, setting forth the name of his office, the port at which the coast-light dues are paid, the amount so paid, the name, tonnage and other proper description of the vessel in respect of which such payment is made, and the voyage on which she is or has been bound.

Master to report arrival.

8. Within twenty-four hours after the arrival within a port of any vessel chargeable with coast-light dues, the master of such vessel shall give notice of such arrival to the Customs-Collector.

Tonnage of vessel how ascertained—

9. In order to ascertain the tonnage of any vessel chargeable with coast-light dues, the following rules shall be observed:—

if registered;

(*a*) If such vessel be a British registered vessel or a vessel registered under Act No. X of 1841 or Act No. XI of 1850, or under any other law for the time being in force for the registration of vessels in India, the Customs-Collector may require the owner or master of such vessel, or any other person having possession of her register, to produce such register for inspection. If any such owner, master or other person neglects or refuses to produce such register, or otherwise to satisfy the Customs-Collector as to what is the true tonnage of the vessel in respect of which such coast-light dues are payable, he shall be punished with fine which may extend to one hundred rupees, and the Customs-Collector may cause such vessel to be measured and the tonnage thereof to be ascertained; and in such case the owner or master of such vessel shall also be liable to pay the expenses of such measurement.

if not registered.

(*b*) If such vessel be not a British registered vessel or a vessel registered under Act No. X of 1841 or Act No. XI of 1850, or under any other law for the time being in force for the registration of vessels in India, and the owner or master thereof fails to satisfy the Customs-Collector as to what is her true tonnage according to the mode of measurement prescribed by the law in force for the time being for

regulating the measurement of British registered vessels, the Customs-Collector shall cause such vessel to be measured and the tonnage thereof, according to the mode aforesaid, to be ascertained; and in such case the owner or master of such vessel shall be liable to pay the expenses of such measurement.

On refusal to pay dues or expenses, the Collector may distrain and sell.

10. If the master of any vessel refuses or neglects to pay to the Customs-Collector on demand by him the amount of any dues or expenses payable in respect of such vessel under this Act, the Customs-Collector may distrain or arrest such vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount of such dues or expenses is paid;

and in case any part of such dues or expenses, or of the costs of the distress or arrest, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrest so made, the Customs-Collector may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy such dues, expenses and costs (including the costs of sale) remaining unpaid, and shall render the surplus (if any) to the master of such vessel upon demand.

No port-clearance to be granted until dues, &c., are paid.

11. The officer of Government whose duty it is to grant a port-clearance for any vessel shall not grant such port-clearance until her master or some other person has paid, or secured to the satisfaction of such officer, the amount of all dues, expenses and costs with which such vessel is chargeable under this Act, and of any fine to which any person is liable for anything done by him in contravention of this Act.

Master to specify on demand voyage on which vessel is bound.

12. The master of any vessel departing from or entering any port in British India upon, or in the course of, or at the termination of, any voyage, shall, upon the demand of the Customs-Collector, specify upon what voyage she is or has been bound.

Penalty for evading payment of dues, &c.

13. If the master of any vessel evades, or attempts to evade, the payment of any coast-light dues, expenses or costs payable in respect of such vessel under this Act, he shall be punished with fine which may extend to two hundred rupees.

Determination of Disputes under Act.

Magistrate to decide disputes.

14. If any dispute arises as to whether any vessel is chargeable with any coast-light dues, expenses or costs under this Act, or as to the amount of such dues, expenses or costs, such dispute shall, upon application made in that

behalf by either of the disputing parties, be heard and determined in the towns of Calcutta, Madras and Bombay by a Presidency Magistrate, and elsewhere by any Magistrate exercising, at the place where the dispute arises, powers under the Code of Criminal Procedure not less than those of a Magistrate of the second class. All decisions under this section shall be final.

X of 1882.

Prosecutions under other Laws.

Saving of prosecutions under other laws.

15. Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act: Provided that no person shall be punished twice for the same act or omission.

Statement of Receipts and Expenditure.

Statement of receipts and expenditure to be published.

16. The Governor General in Council shall, on or before the first day of October in each year, publish in the Gazette of India a statement showing the amount received on account of coast-light dues during the year ending on the thirty-first day of March last preceding, and the amount expended during the same period on the establishment and maintenance of coast-lights in the eastern part of the Bay of Bengal.

17. [*Amendment of Indian Ports Act, 1875.*] *Rep. by Act X of 1889, s. 2 (1).*

SCHEDULE.

(*See section 4.*)

1. A voyage to or from Chittagong or any place west of the longitude of Chittagong—	(*a*) from or to any port in Lower Burma; or (*b*) from or to any port in the Andaman and Nicobar Islands or any place east of the longitude of Mergui, by a course passing between the northern extremity of the Andaman Islands and the coast of Lower Burma,
2. A voyage to or from any port in Lower Burma—	from or to any other port in Lower Burma,
except voyages to or from Maulmain, Tavoy, from or to Mergui.	from or to Tavoy or Mergui, or to or from
3. A voyage to or from Rangoon and any port in Lower Burma west of the longitude of Rangoon—	from or to any place east of the longitude of Mergui,
4. A voyage to or from any port in Lower Burma other than Tavoy and Mergui—	from or to any port in the Andaman and Nicobar Islands.

THE RANGOON PORT COMMISSIONERS ACT, 1879.

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ACT No. XV OF 1879.

Received the Governor General's assent on the 12th September, 1879.

An Act to appoint Commissioners for the Port of Rangoon.

Preamble. WHEREAS it is expedient to provide for the management of the affairs of the port of Rangoon, and for that purpose to appoint Commissioners; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called the Rangoon Port Commissioners Act, 1879:

and it shall come into force on such date as the Local Government may notify in the local official Gazette.[a] Commencement.

Nothing herein contained shall affect the powers conferred on the [b]Local Government under the Burma Municipal Act, 1884, section 60, clause (*c*).[b] XVII of 1884.

2. In this Act, unless there be something repugnant in the subject or context,— Interpretation-clause

"port" means the port of Rangoon as defined for the purposes of this Act:[c] "Port":

"river" means any flowing water within a radius of eight statute miles from Soolay Pagoda wharf navigable by vessels, and includes the bank up to high-water mark: "River":

"high-water mark" means a line drawn through the highest points reached by ordinary spring-tides at any season of the year: "High-water mark":

"low-water mark" means the lowest point reached by ordinary ebb spring-tides at any season of the year: "Low-water mark":

"vessel" includes anything made for the conveyance by water of human beings or of property: "Vessel":

"master", when used in relation to any vessel, means any person (except a pilot or harbour-master) having for the time being the charge or control of such vessel: "Master":

"pilot" means a person for the time being authorized by the Local Government to pilot vessels: "Pilot":

"owner" includes also any agent to whom a vessel is consigned: "Owner":

"land" includes the bed of the river below high-water mark, and also things attached to the earth or permanently fastened to anything attached to the earth; and "Land":

"Commissioners" means the Commissioners appointed under this Act. "Commissioners".

3. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, define the limits of the port for the purposes of this Act, and may, from time to time, with the like sanction, and by a like notification, alter such limits.[a] Power to define and alter limits of port.

Such limits may extend to any part of the navigable approaches to the port, and may include any wharves, quays, stages, jetties, piers, tramways, warehouses, sheds and other works made on behalf of the public for con-

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[a] The Act came into force on the 1st January, 1880—see Burma Gazette, 20th December, 1879, Pt. II, p. 283.

[b-b] These words in s. 1 have been substituted—see Act XI of 1889, s. 100, *infra*, p. 334.

[c] For limits of the port of Rangoon as defined under s. 3, see Burma Gazette, 22nd December, 1888, Pt. I, p. 591.

venience of traffic, for safety of vessels, or for the improvement, maintenance and good government of the port or river, whether within or without high-water mark, and (subject to any rights of private property therein) any portion of the shore or bank within fifty yards of high-water mark.

CHAPTER II.

OF THE APPOINTMENT AND REMOVAL OF THE COMMISSIONERS.

Appointment of Commissioners.

4. The Local Government may, from time to time, appoint persons, either by name or by virtue of their office, to be Commissioners for the port of Rangoon:

Provided that—

(*a*) the number of such Commissioners holding office at one and the same time shall not be more than twelve or less than nine:

(*b*) the number of such Commissioners who are persons holding salaried offices under Government shall not be—

(i) less than four or more than six when the total number of Commissioners is eleven or twelve;

(ii) less than three or more than five when the total number of Commissioners is nine or ten.

Tenure of office.

5. Commissioners shall hold office for two years, and may thereafter be reappointed; but the Local Government may at any time accept the resignation of any Commissioner.

Removal of Commissioners.

6. Notwithstanding anything in sections 4 and 5, the Local Government may,—

(*a*) with the previous sanction of the Governor General in Council, by written order direct that any Commissioner therein named shall cease from a specified date to be a Commissioner;

(*b*) by written order direct that any Commissioner therein named who, without the written consent of the Local Government, absents himself from six consecutive meetings of the Commissioners shall cease to be a Commissioner:

and the Commissioner so named shall cease to be a Commissioner accordingly.

Chairman and Vice-chairman.

7. The Local Government may from time to time appoint one of the Commissioners to be Chairman and another of the Commissioners to be Vice-chairman, and cancel such appointment. Such Chairman and Vice-chairman

(*Chap. II.—Of the Appointment and Removal of the Commissioners. Secs. 8.*
Chap. III.—Powers and Duties of Commissioners. Secs. 9-12.)

respectively shall receive such remuneration, if any, as the Local Government may from time to time determine.

Appointments, &c., to be notified.

8. Every appointment and removal from office made and resignation accepted under sections 4, 5, 6 and 7 shall be notified in the local official Gazette.

CHAPTER III.

Powers and Duties of Commissioners.

Administration vests in Commissioners.

9. Subject to the powers conferred on, and reserved to, the Governor General in Council and the Local Government respectively by this Act or any other enactment for the time being in force, the execution and administration of the powers and trusts created and declared by this Act shall be vested in the Commissioners.

Power to hold property.

10. With the previous sanction of the Local Government, the Commissioners may acquire and hold moveable or immoveable property within or without the limits of the port; and with the same sanction may lease, mortgage, sell or exchange such property.

Transfer of Government property to Commissioners.

11. The property specified in Schedule A hereto annexed shall be vested in the Commissioners:

Provided that—

(*a*) no buildings or other permanent structures shall be erected thereon except with the sanction of, and in accordance with plans to be previously approved by, the Local Government;

(*b*) any portion of such property required by Government for a public purpose may be resumed by Government without claim to compensation on the part of the Commissioners, except for buildings or other permanent structures erected thereon with the sanction of the Local Government subsequently to the date on which this Act comes into force;

(*c*) if any question arises between the Government and the Commissioners as to the boundaries of any portion of such land, the Local Government may define and demarcate such boundaries, and the decision of the Local Government in respect to such boundaries shall be final.

Compensation to municipality for loss of

12. As compensation for loss of income heretofore derived from any source of revenue transferred from the municipality of Rangoon to the Commissioners, the Local Government may assign annually to the said municipality,

from the money received by the Commissioners, such sum not exceeding the average of such income during the five years next preceding the date on which this Act comes into force as the Local Government thinks fit.

Acquisition of land.

13. When any land is required for the purposes of this Act, the Local Government may, on the request of the Commissioners, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the Commissioners of the compensation awarded under that Act, the land shall vest in the Commissioners. X of 1870.

Property to be in trust.

14. All property vested in, or acquired or held by, and all moneys paid or payable to, the Commissioners, shall be held and applied by them in trust for the purposes of this Act.

Works to be constructed.

15. The works to be constructed and carried out by the Commissioners may include the following:—

(*a*) wharves, quays, stages, jetties and piers, with all necessary and convenient drains, arches, landing-places, stairs, fences and approaches;

(*b*) tramways, warehouses, sheds, engines and other appliances for conveying, receiving and storing goods and merchandise landed or to be shipped;

(*c*) laying down moorings and the erection of cranes, scales and all other necessary appliances for loading and unloading vessels;

(*d*) reclaiming, enclosing and raising any part of the bank or bed of the river within the limits of the port;

(*e*) the construction and application of dredges and other machines for cleaning, deepening and improving the bed of the river within the limits of the port;

(*f*) procuring and employing steam-vessels for towing vessels into, out of, in or upon, the river or the port;

(*g*) such works without the limits of the port as shall be necessary for the protection of works executed under this Act;

(*h*) all such other works and appliances as may, in the opinion of the Commissioners, be necessary for carrying out the provisions of this Act.

Power to make port-rules.

16. With the previous sanction of the Local Government, the Commissioners may from time to time make rules consistent with this Act and with the Indian Ports Act, 1889,[a] for any of the following purposes (that is to say):— X of 1889.

(*a*) for regulating, declaring and defining the wharves, quays, stages, jetties and piers on and from which goods shall be landed from and shipped in vessels within the port;

[a] This Act has been substituted in s. 16 for Act XII of 1875—see Act X of 1889, s. 2 (*f*).

(*b*) for the safe and convenient use of such wharves, quays, stages, jetties, piers and of landing-places, tramways, warehouses, sheds and other works in and adjoining the same;

(*c*) for regulating the reception and removal of goods within and from the premises of the Commissioners, and for declaring the procedure to be followed in taking charge of goods which may have been damaged before landing, or may be alleged to be so damaged;

(*d*) for the mode of payment of tolls, charges, dues and rates levied under this Act;

(*e*) for providing water for ships and for licensing and regulating water-boats within the port;

(*f*) for the removal of wrecks from the port or the river and keeping clean the port, the river, the bank of the river and the works of the Commissioners, and for preventing filth or rubbish being thrown therein or thereon;

(*g*) for otherwise carrying out the purposes of this Act.

Such rules, when sanctioned by the Local Government, shall be published in the local official Gazette, and shall thereupon have the force of law.

Control of pilots within the port.

17. Within the limits of the port, pilots in charge of vessels shall obey all lawful orders issued to them by the Commissioners in respect to such vessels.

Free public landing-places.

18. The Commissioners shall make a sufficient number of landing-places within the port, from and upon which the public shall be permitted to embark and land free of charge.

Removal of bathing and landing places.

19. The Commissioners may occupy or remove or alter any bathing-place or landing-place within the port, and prohibit the public from resorting to or using the same:

Provided that the Commissioners shall provide for the use of the public such other bathing-places or landing-places (if any) as the Local Government may direct.

Appliances for shipping, &c., for seagoing vessels.

20. For the expeditious and convenient shipment and landing of goods in and from seagoing vessels within the port, and for the storing of such goods, the Commissioners shall provide and maintain sufficient wharves, quays, stages, jetties, piers, warehouses and sheds, and sufficient servants and appliances, and shall by their servants land and ship all goods from and in any such vessel coming to such wharf, quay, stage, jetty or pier, except where there is a lawful excuse for refusing to land or ship such goods, or such vessel is under any enactment for the time being in force not entitled to have her cargo shipped or discharged:

Provided that—

(*a*) the Commissioners shall not be bound to land, ship or move any single article or package exceeding ten tons of twenty hundredweight in weight, except at such special charge as may be agreed on in respect of such article or package;

(*b*) the Commissioners may, by special agreement with the masters of vessels or the owners of goods, permit goods to be landed and shipped by others than the servants of the Commissioners.

Seagoing vessels compelled to use wharves, &c.

21. When any wharf, quay, stage, jetty or pier has been made and completed, with sufficient warehouses, sheds and appliances for landing and shipping or for landing or for shipping goods from and in seagoing vessels, the Commissioners may, with the previous sanction of the Local Government, by a notification published in three consecutive numbers of the local official Gazette, declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping, or for landing or for shipping, as the case may be, goods from and in seagoing vessels.

From and after such publication the Commissioners may from time to time, when there is room at such wharf, quay, stage, jetty or pier, order to come alongside of such wharf, quay, stage, jetty or pier, for the purpose of landing and shipping goods, or for landing or for shipping the same, as the case may be, any seagoing vessel within the port which has not commenced to discharge cargo, or which, being about to take in cargo, has not commenced to take in cargo.

If accommodation sufficient, all seagoing vessels compelled to use wharves, &c.

22. When a sufficient number of wharves, quays, stages, jetties, piers, warehouses, sheds and appliances have been provided as aforesaid, the Commissioners may, with the previous sanction of the Local Government, by an order published in three consecutive numbers of the local official Gazette, direct that no goods shall be landed or shipped from or in any seagoing vessels within the port, save at such wharves, quays, stages, jetties and piers, and may, in like manner, alter, vary or revoke any such order.

Inland vessels compelled to use wharves, &c.

23. When any wharf, quay, stage, jetty or pier for receiving, landing or shipping goods from or in vessels, not being seagoing vessels, has been made and completed by the Commissioners, with sufficient warehouses, sheds and appliances in that behalf, the Commissioners may, with the sanction of the Local Government, by an order published in three consecutive numbers of the local official Gazette, declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping goods from or in vessels, not being seagoing vessels, and that, within certain prescribed limits within the port to be specified in such order, it shall not be lawful to land or ship any goods from

or in any vessel not being a seagoing vessel of any class specified in such order, except at such wharf, quay, stage, jetty or pier, nor for any such vessel while within such limits to anchor, fasten or lay within fifty yards of low-water mark without the consent of the Commissioners.

If after such publication any such vessel, while within such limits, so anchors, fastens or lays, the Commissioners may cause the same to be removed out of the said limits.

The Commissioners may in like manner, with the like sanction, alter, vary or revoke any such order.

Power to order removal of vessels from wharves, &c.

24. The Commissioners may, by notice in writing, order the master or owner of any vessel to remove such vessel from any wharf, quay, stage, jetty or pier belonging to the Commissioners, and, unless such vessel is removed therefrom within thirty-six hours after service of such notice on the master or owner thereof, the Commissioners may charge in respect of such vessel such sum as they think fit not exceeding one hundred rupees for each day of twenty-four hours or portion of such day after the expiry of such thirty-six hours during which such vessel remains at such wharf, quay, stage, jetty or pier.

Power to exempt from obligation to use wharves, &c.

25. Notwithstanding anything contained in sections 21, 22 and 23, the Local Government may, by notification in the local official Gazette, from time to time permit certain specified vessels or classes of vessels to discharge or ship cargo, or certain specified cargo or classes of cargo, at such part of the port, in such manner, during such period, subject to such payments and on such conditions as the Local Government may think fit, and otherwise grant exemption from the provisions of such sections.

The Local Government may also, by like notification, cancel or modify any such notification.

Discharge of liability on goods landed.

26. Whenever any goods are landed by the Commissioners from any vessel, the Commissioners shall, if so required, give to the master of such vessel a receipt in the form or to the effect set forth in Schedule B hereto annexed, and may in any such receipt include all goods landed from such vessel during one day. No master or owner of a vessel from which the goods in respect of which such receipt is given may have been landed shall be liable for any loss or damage to such goods which may occur after they have been so landed.

Wharves, &c., to be appointed under Customs Acts.

27. When the Local Government appoints, under the provisions of any Act for the regulation of duties of customs, any wharf, quay, stage, jetty, pier, warehouse or shed provided under this Act for the use of seagoing vessels to be a wharf for the landing or shipping, or a warehouse for the storing, of goods within the meaning of such Act, the Commissioners shall set apart, maintain and secure on or in such wharf, quay, stage, jetty, pier, warehouse or

shed such portion thereof or place therein, or adjoining thereto, for the use of the officers of customs as the Local Government approves of or appoints in that behalf.

Dues at customs-wharves, &c.

28. Notwithstanding that any wharf, quay, stage, jetty, pier, warehouse or shed, or portion thereof, has, under the provisions of the last section, been set apart for the use of the officers of customs, all dues, rates, tolls, charges and rents payable under this Act in respect thereof, or for the use thereof, or for the stowage of goods therein, shall be paid and be payable to the Commissioners or to such persons as they may appoint to receive the same.

Private wharves, &c., prohibited.

29. Save as hereinafter provided, no person except the Commissioners shall, after the date on which this Act comes into force, make, erect or fix below high-water mark within the port any wharf, dock, quay, stage, jetty, pier, erection or mooring.

Any matter or thing so made, erected or fixed may be removed by the Commissioners, and the person who has so made, erected or fixed any such matter or thing shall be punished with fine which may extend to one thousand rupees, and with a further fine which may extend to one hundred rupees for every day during which such matter or thing has been permitted to remain so made, erected or fixed after notice to remove the same has been given to him, and shall also be liable to pay all expenses which may have been incurred by the Commissioners in removing such matter or thing.

Power to permit erection of private wharves, &c., within the port subject to conditions.

30. The Local Government may, by an order in writing, and subject to the conditions contained in the same, permit any person to make, erect or fix below high-water mark within the port any wharf, dock, quay, stage, jetty, pier, erection or mooring.

Wharves, &c., beyond port-limits.

31. In case any wharf, dock, quay, stage, jetty, pier, erection or mooring is after the date on which this Act comes into force, without the consent in writing of the Local Government, made, erected or fixed below high-water mark without the limits for the time being of the port, and thereafter the limits of the port are extended so as to include the place in which such wharf, dock, quay, stage, jetty, pier, erection or mooring has been made, erected or fixed, the Commissioners may remove, fill up or destroy such wharf, dock, quay, stage, jetty, pier, erection or mooring without making any compensation therefor.

Scale of tolls and charges to be framed.

32. The Commissioners shall frame—

(*a*) a scale of tolls, dues, rates and charges for the landing and shipment of goods from and in seagoing vessels and vessels not being seagoing vessels, respectively, at the wharves, quays, stages, jetties and piers,

and for the use of such wharves, quays, stages, jetties and piers by such vessels, and for the storing and keeping of any goods stored in any premises belonging to the Commissioners, and for the removal of goods, and for the use of any mooring;

(*b*) a scale of tolls for the use of the said wharves, quays, moorings, stages, jetties and piers by any such vessels, in case the Commissioners permit the goods to be landed or shipped by other than their own servants; and

(*c*) a scale of charges for any services to be performed by the Commissioners or their servants in respect of any vessels or goods, or for the use of any works or appliances to be provided by the Commissioners.

Such scales shall be submitted to the Local Government, and, after approval or modification by the Local Government, shall be published by the Commissioners in the local official Gazette.

Subject to the like approval or modification and publication, the Commissioners may from time to time alter the said scales.

Every such scale shall be printed in the English and Burmese languages and characters, and shall be hung up, and kept hung up, in some conspicuous place at the several wharves, quays, stages, jetties, piers, warehouses and sheds.

Commissioners' lien for tolls and charges.

33. For the amount of all tolls, dues, rates and charges levied under this Act in respect of any goods, the Commissioners shall have a lien on such goods, and shall be entitled to seize and detain the same until such tolls, dues, rates and charges are fully paid.

Tolls, dues, rates and charges in respect of goods to be landed shall become payable immediately on the landing of the goods, and, in respect of goods to be removed from the premises of the Commissioners or to be shipped for export, shall be payable before the goods are removed or shipped.

The lien for such tolls, dues, rates and charges shall have priority over all other liens and claims, except a lien for freight, primage and general average where such lien has been preserved in the manner hereinafter provided, and a lien for money payable to Her Majesty or the Secretary of State for India in Council under any law for the time being in force.

Owner's lien for freight.

34. If the master or owner of any vessel, at or before the time of landing from such vessel of any goods at any wharf, quay, stage, jetty or pier, gives to the Commissioners notice in writing that such goods are to remain subject to a lien for freight, primage or general average of an amount to be mentioned in such notice, such goods shall continue liable after the landing thereof to such lien.

Such goods shall be retained either in the warehouses and sheds of the

Commissioners, or, with the consent of the chief officer of customs, in the public warehouses, at the risk and expense of the owners of the said goods, until the lien is discharged as hereinafter mentioned.

Discharge of shipowners' lien for freight.

35. Upon the production to any officer appointed by the Commissioners in that behalf of a document purporting to be a receipt for, or a release from, the amount of such lien, executed by the person by or on whose behalf such notice has been given, the Commissioners may permit such goods to be removed without regard to such lien :

Provided they shall have used reasonable care in respect to the authenticity of such document.

Goods may be removed to warehouses.

36. Whenever goods have, without any default on the part of the Commissioners, been left for two clear days on or in any wharf or shed belonging to the Commissioners, the Commissioners may cause such goods to be removed either to any warehouse belonging to them, or, with the consent of the chief officer of customs, to the public warehouses; and the removal to and detention in any such warehouse shall be at the risk and expense of the owners of the said goods.

Whenever any goods are so removed, the Commissioners shall give notice to the consignee or owner of such goods of such removal, if his address be known, by letter sent by post to such address or left thereat; and shall also publish in the local official Gazette and in two local newspapers notice of such removal, and shall specify therein the numbers, marks and descriptions of such goods so far as the same appear; and the consignee or owner of such goods, in addition to the expenses of the removal of the same, shall be liable, in case the goods are removed to any warehouse of the Commissioners, to a charge for warehousing for the time during which the goods shall remain in the said warehouse.

If the goods are removed to the public warehouses, the said consignee or owner shall be liable to the charges for warehousing goods in such public warehouses; and the said goods shall remain subject to all liens to which they would have been liable it they had remained in the possession of the Commissioners, and shall be subject to the power of sale hereinafter given.

Recovery of tolls and charges by sale of goods.

37. If the tolls, dues, rates and charges payable to the Commissioners in respect of any goods under this Act are not paid, or if the lien for freight, primage or general average where such notice as aforesaid has been given is not discharged, the Commissioners may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, primage or general average, shall, at the expiration of four months from the time when the goods were placed in their custody, sell by public auction the said goods, or so much

thereof as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

Before making such sale, ten days' notice of the same shall be given by publication thereof in the local official Gazette and in two local news papers.

If the address of the owner of the goods has been stated on the manifest of the cargo, or in any of the documents which have come into the hands of the Commissioners, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address or sent by the post; but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the omission to send such notice, nor shall any such purchaser be bound to enquire whether such notice has been sent:

Provided that, if such goods are of so perishable a nature as, in the opinion of the officer appointed by the Commissioners in that behalf, to render early or immediate sale necessary or advisable, the Commissioners may, within such period not less than twenty-four hours after the landing of the goods as they think fit, sell by public auction the said goods or such portion of them as aforesaid, in which event such notice, if any, shall be given to the owner of the goods as the urgency of the case admits of.

Application of sale-proceeds.

38. The proceeds of every such sale shall be applied as follows :—

(*a*) in payment of the expenses of the sale;

(*b*) in payment, according to their respective priorities, of the liens and claims excepted in section 33 from the priority of the lien of the Commissioners;

(*c*) in payment of the tolls, dues, rates and charges of landing, removing, storing or warehousing the same, and of all other charges due to the Commissioners in respect thereof.

The surplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agents, on his applying for the same:

Provided such application be made within one year from the sale, or reason be shown to the satisfaction of the Commissioners why such application was not so made; and, in case such application shall not be so made, nor reason shown, such surplus shall be held by the Commissioners upon trust for the purposes of this Act.

Recovery of tolls and charges by distraint of vessel.

39. If the master of any vessel in respect of which any tolls, dues, rates, charges or penalties are payable under this Act, or any rules or orders made in pursuance thereof, refuses or neglects to pay the same or any part thereof on demand, the Commissioners may apply to the Collector of Customs of the port,

and such Collector shall distrain or arrest such vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount so due to the Commissioners is paid;

and, in case any part of the said tolls, dues, rates, charges or penalties, or of the costs of the distress or arrestment, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrestment has been so made, the Collector of Customs may cause the vessel or other thing so distrained or arrested to be sold, and, with the proceeds of such sale, shall satisfy such tolls, dues, rates, charges or penalties and costs, including the costs of sale remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand.

Port-clearance not to be granted till tolls, &c., are paid.

40. If the Commissioners give to the officer of Government whose duty it is to grant the port-clearance of any vessel a notice stating that an amount therein specified is due in respect of tolls, dues, rates, charges or penalties chargeable under this Act, or any rules or orders made in pursuance thereof against such vessel, or by the owner or master of such vessel, in respect thereof, or against or in respect of any goods on board such vessel, such officer shall not grant such port-clearance until the amount so chargeable has been paid.

Compensation for damage to property of Commissioners.

41. In case any damage or mischief is done to any wharves, docks, quays, jetties, stages, piers or works constructed or acquired by the Commissioners under this Act by any vessel, through the negligence of the master thereof or of any of the mariners or persons employed therein, any Magistrate of the town of Rangoon may, on the application of the Commissioners, and on declaration by them that payment for such damage or mischief has been refused or has not been made on demand, issue a summons to the master or owner of such vessel, requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief.

If, at the time appointed in the summons, and whether the person summoned appears or not, it is proved that the alleged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed two hundred rupees, the Magistrate may issue his warrant of distress, under which a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores of the vessel may be seized and sold to cover the expenses of and attending the execution of the distress, and the pecuniary amount of damage as aforesaid, and such amount shall be paid to the Commissioners out of the proceeds of the distress:

Provided that if, at the time of the damage or mischief, the vessel was under the orders of a duly authorized officer belonging to the Pilot Service or

the Harbour-Master or Master-Attendant's Department, the case shall not be cognizable by the Magistrate under this section.

River police.

42. The Commissioners shall provide such sums as the Local Government may from time to time require for the establishment and maintenance of Police, to be called "River Police," for the protection of the port, the approaches to the port and the river. Such sums shall be a first charge on any property vested in, and on any moneys paid or payable to, the Commissioners under this Act.

The river police shall be enrolled under Act No. V of 1861 (*for the Regulation of Police*).

Local Government may delegate powers to survey steamers.

43. The Local Government may from time to time delegate to the Commissioners all or any of the powers conferred on the Chief Commissioner of Lower Burma[a] within the port under the Burmese Steamer Survey Act, 1871,[b] and may at any time resume the same.

XVI of 1871.

CHAPTER IV.

Of the general Control of Government.

Commissioners' acts subject to approval.

44. All acts and proceedings of the Commissioners shall be subject to the approval of the Local Government; and the Local Government may cancel, suspend or modify any such acts or proceedings, and may grant exemption from the payment of any tolls, charges, dues or rates leviable under this Act.

Control over works and expenditure.

45. The Local Government may from time to time make rules consistent with this Act as to the cost and class of works which the Commissioners may execute, and the objects to which the receipts of the Commissioners shall be applied.

Local Government may order survey.

46. The Local Government may at any time order a survey and examination of any works of the Commissioners under this Act, or the site thereof, and the cost of such survey or examination shall be borne and paid by the Commissioners.

Local Government may carry out neglected works.

47. If the Commissioners allow any work acquired or constructed by them under this Act to fall into disrepair, or do not complete any work commenced by them or duly estimated for and sanctioned, and do not, after notice given by the Local Government in writing, proceed effectually to repair or complete such work, the Local Government may cause such work to be restored,

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[a] Since Upper Burma was placed under the administration of the Chief Commissioner of Lower Burma, this officer is styled Chief Commissioner of Burma—see Proclamation, dated 25th September, 1886, Gazette of India, 25th *idem*, Pt. I, p. 539.

[b] This Act has been repealed by Act VI of 1894, s. 3, but see s. 4, *ibid.*

completed or constructed, and the cost thereof shall be borne and paid by the Commissioners.

Governor General in Council may revoke powers of Commissioners.

48. If at any time the Governor General in Council is satisfied that the purposes intended to be accomplished under this Act have not been and are not likely to be properly accomplished by the Commissioners, the Governor General in Council may, by notification in the Gazette of India, to be republished in the local official Gazette, give notice that, unless within six months the Commissioners take measures to the satisfaction of the Governor General in Council for properly accomplishing such purposes, the powers by this Act conferred on the Commissioners will, at the end of such period, be withdrawn and revoked.

On the expiration of the period aforesaid, the Governor General in Council may, if no such measures to his satisfaction have been taken by the Commissioners, declare such powers to be withdrawn or revoked, and may direct the Local Government to assume such powers; and thereupon such powers shall be withdrawn and revoked accordingly, and all the powers, rights and authorities and all the property vested by this Act in the Commissioners shall thereupon vest in the Local Government.

CHAPTER V.

OF SUITS BY AND AGAINST THE COMMISSIONERS.

Chairman or Vice-chairman to sue.

49. The Commissioners shall sue and be sued in the name of their Chairman or of their Vice-chairman.

Commissioners not personally liable.

50. No Commissioner shall be personally liable for any contract made or expense incurred by or on behalf of the Commissioners; but the funds from time to time in the hands of the Commissioners shall be liable for, and chargeable with, all contracts made in manner hereinafter provided.

Commissioners liable for breach of trust.

51. Every Commissioner shall be liable for any misapplication of money entrusted to the Commissioners to which he has been a party, or which happens through, or is facilitated by, the neglect of his duty.

Limitation of suits.

52. No suit shall be brought against the Commissioners or any of their officers, or any person acting under their direction, for anything purporting to be done under this Act until the expiration of one month next after notice in writing has been delivered or left at the office of the Commissioners, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intending plaintiff.

(Chap. V.—Of Suits by and against the Commissioners. Sec. 53 Chap VI.—Of Meetings, Establishment, Contracts and the general Conduct of Business. Secs. 54-58.)

Unless such notice be proved, the Court shall dismiss the suit.

Every such suit shall be commenced within six months next after the accrual of the right to sue, and not afterwards.

If any person to whom any such notice of suit is given before suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Indemnity to Commissioners for acts of harbour-master, &c.

53. The Commissioners shall not be answerable for any act or default of any master-attendant or harbour-master, or of any pilot, or of any deputy or assistant of any of the officers abovementioned, or of any person acting under the authority or direction of any such officer or assistant, done within the limits of the port; nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things within the said limits which may be used by such vessel:

Provided that nothing in this section shall protect the Commissioners from a suit in respect of any act done by or under their express order or sanction.

CHAPTER VI.

Of Meetings, Establishment, Contracts and the general Conduct of Business.

A Commissioner may be secretary.

54. The Commissioners may, if they think fit, elect one of their number to be secretary to the Commissioners.

Seal and place of business.

55. The Commissioners shall have a common seal inscribed "Port Commissioners, Rangoon," and an office where the Commissioners shall meet for the transaction of business.

Monthly meetings and remuneration for attendance.

56. The Commissioners shall meet for the transaction of business at least once in every month; and for attendance at every such meeting the Commissioners shall, subject to such conditions as the Local Government may from time to time prescribe, receive such fees as the Local Government may from time to time direct:

Provided that such fees shall not be given for attendance at such meetings oftener than once a month.

Chairman and Vice-chairman to attend.

57. The Chairman and Vice-chairman shall, unless prevented by sickness or other reasonable cause, attend all meetings of the Commissioners.

Ordinary and special meetings.

58. The Chairman, or, in the event of his illness or absence from Rangoon, the Vice-chairman, may, whenever he thinks fit, and shall upon a requisition

made in writing by not less than three Commissioners, convene a meeting of the Commissioners for the transaction of any special business.

Meetings so convened are special meetings; all other meetings are ordinary meetings.

Notice of meetings.

59. At least three days' notice shall be given of every meeting of the Commissioners, and the notice shall state the nature of the business to be transacted.

Conduct of business at meetings.

60. At all meetings of the Commissioners the business shall be conducted in accordance with the following rules:—

(*a*) the Chairman, or, in his absence, the Vice-chairman, shall be President; if both be absent, the Commissioners may elect one of their number to be President:

(*b*) the President may, with the consent of the meeting, adjourn the meeting from time to time;

(*c*) at special meetings no business shall be transacted other than the special business for the consideration of which the meeting was specially called; at ordinary meetings any business may be transacted of which due notice has been given;

(*d*) the quorum necessary for the transaction of business shall be such number, not less than five, as the Commissioners may from time to time prescribe;

(*e*) all questions which may come before the Commissioners at any meeting shall be decided by a majority of votes. Each Commissioner shall have one vote; and, in case of equality of votes, the President shall have a second or casting vote;

(*f*) minutes of the proceedings at all meetings of the Commissioners shall be drawn up after each meeting and shall be signed by the President and at least one other member who was present at such meeting; a copy of all such minutes shall, as soon as conveniently may be, be transmitted to the Secretary to the Local Government.

Mode of giving effect to resolutions.

61. The Commissioners may appoint one or more of their number to carry out their resolutions, and to enforce any of the rules made under the provisions of this Act, or they may appoint a special officer for such purpose.

Proceedings not invalidated by defect of form.

62. No proceedings of the Commissioners at any special or ordinary meeting shall be deemed invalid solely by reason of defect of notice or defect of form.

Schedule of establishment.

63. The Commissioners shall from time to time prepare and submit to the Local Government a schedule setting forth the number of officers and servants

necessary for carrying out the purposes of this Act, and of the salaries, fees and allowances which it is proposed to assign to such officers and servants. The Local Government may sanction such schedule, or modify and sanction the same. Every such schedule so sanctioned shall remain in force till some other such schedule has been so prepared and sanctioned.

It shall not be lawful for the Commissioners to employ any officer or servant for any office or employment not sanctioned in such schedule, nor to pay or allow to any officer or servant any salary, allowance or fee greater than, or beyond, that sanctioned therein.

Nothing in this section applies to artizans, porters or labourers.

Commissioners are public servants.

64. The Commissioners and the servants of the Commissioners other than artizans, porters and labourers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

Commissioners may make bye-laws.

65. The Commissioners may from time to time make bye-laws consistent with this Act for regulating the time and place of their meetings, the conduct of their business, the division of the duties among themselves, the guidance of persons employed by them, the appointment, payment, leave, suspension and removal of their officers and servants mentioned in the schedule last aforesaid, and for other similar matters.

The making of contracts.

66. Such one of their number as the Commissioners may from time to time, with the previous sanction of the Local Government, appoint in this behalf may, for and on behalf of the Commissioners, enter into any contract whereof the value or amount shall not exceed two hundred rupees, in such manner and form as, according to the law for the time being administered in Rangoon, would bind him if such contract were on his own behalf; but every other contract by or on behalf of the Commissioners shall be in writing and signed by the Chairman or Vice-chairman and by two other Commissioners, of whom one shall be an *ex officio* Commissioner, and shall be sealed with the common seal of the Commissioners:

Provided that no contract under or by virtue of which a sum greater than ten thousand rupees may in any event be payable by the Commissioners shall be valid without the assent in writing of the Local Government.

No contract not executed as in this section provided shall be binding on the Commissioners.

Manner in which work to be sanctioned.

67. No new work, the estimated cost of which exceeds five hundred rupees, shall be commenced by the Commissioners, nor shall any contract be entered into by the Commissioners in respect of any such work, until a plan and estimate thereof have been approved by the Commissioners at a meeting.

In case the estimated cost of such new work exceeds five thousand rupees, it shall not be commenced, nor shall any contract be entered into in respect of it, until such plan and estimate have been submitted to the Local Government and sanctioned by it in an order published in the local official Gazette.

And, in case the estimated cost of any such work exceeds fifty thousand rupees, the Local Government shall not sanction the same until such plan and estimate have been submitted to the Governor General in Council and approved by him.

Money to be kept in Bank.

68. All moneys raised by and paid to the Commissioners under this Act shall be kept in the Bank of Bengal in Rangoon, and no disbursement of such funds, or any part thereof, shall be made—

(*a*) in excess of such sum as may in that behalf be from month to month appropriated by the Commissioners at a meeting; or

(*b*) except under the signature of the Chairman or Vice-chairman.

Submission of reports, accounts and estimates.

69. The Commissioners shall annually, or oftener if directed by the Local Government so to do, submit in such form and at such time as the Local Government may from time to time direct—

(*a*) statements of their receipts and disbursements under this Act;

(*b*) reports of all works executed and proceedings taken by them under this Act;

(*c*) an estimate of their probable receipts for the financial year next following, with proposals for the expenditure of the same.

Audit of accounts and sanction and publication of estimates.

70. The accounts of the Commissioners shall be examined and audited in such manner as the Local Government may from time to time direct; and, subject to the provisions of this Act, the estimate of probable receipts, and the proposals for expenditure as aforesaid, may on submission be sanctioned by the Local Government, or may be modified or altered and sanctioned.

An abstract of such estimates and proposals shall, when sanctioned, be published in the local official Gazette.

CHAPTER VII.

Penalties.

Commissioner not to be interested in contract, &c.

71. Any Commissioner or servant of the Commissioners who directly or indirectly lends money to the Commissioners, or becomes interested in any contract made by, or on behalf of, the Commissioners, or participates, or agrees

to participate, in any profits of any work done by order or on behalf of the Commissioners, shall forfeit his office or employment, as the case may be, and shall be incapable afterwards of being a Commissioner or holding employment under the Commissioners, and shall further be punished with fine which may extend to five hundred rupees:

but may be shareholder in a Company so interested.

Provided that no Commissioner or servant of the Commissioners shall be liable to a penalty under this section solely by reason of his being a shareholder in any duly incorporated or registered Company which may lend money to, or make contracts with, or do work for, or on behalf of, the Commissioners.

Infringement of section 21, 22, 23, 25 or 30.

72. Whoever infringes any order issued under section 21, 22 or 23 or any condition prescribed under section 25 or 30 shall be punished with fine which may extend to one hundred rupees, and, if the infringement be continuing, with a further fine which may extend to one hundred rupees for every day such order is infringed.

Infringement of rules.

73. Whoever infringes any rule framed by the Commissioners under section 16 shall be liable to a fine which may extend to fifty rupees, and, if the infringement be continuing, to a further fine which may extend to ten rupees for every day after notice of such infringement has been given by the Commissioners.

Punishment in default of fine.

74. Whenever any person is sentenced to a fine under this Act, the convicting Court may direct that, in default of payment of the fine, such person shall suffer simple imprisonment for a term which shall not exceed the following scale:—

(*a*) two months in the case of continuing infringement of section 29;

(*b*) one month in the case of continuing infringement of sections 21, 22 and 23;

(*c*) fourteen days if the fine does not exceed fifty rupees;

(*d*) one month if the fine does not exceed one hundred rupees;

(*e*) two months if the fine exceeds one hundred rupees.

Prosecutions.

75. Prosecutions under this Act may be instituted by the Commissioners or any person authorized by them in this behalf and not otherwise.

CHAPTER VIII.

Miscellaneous.

Saving of

76. All acts done and proceedings taken by the Strand Bank Committee

previous port-regulations.

before this Act comes into force, and all orders, rules and regulations relating to the port and to wharves, quays, stages, jetties, piers, landing-places, tolls, charges, rates and dues within the port made and issued before this Act comes into force, shall, whenever such acts, proceedings, orders, rules or regulations would have been lawful if this Act had been in force, be deemed to have been respectively done, taken, made and issued under the provisions of this Act.

Receiving of dues as revenue.

77. All fees and sums due on account of property for the time being vested in the Commissioners, and all arrears of tolls, charges, rates and dues imposed under this Act, may be recovered as if they were arrears of land-revenue, in addition to the other modes hereinbefore provided.

SCHEDULE A.

(*Referred to in section 11.*)

I.—All the land belonging to Government between the river on the south and the Strand Road and the Monkey Point Battery Road on the north, but not including those roads, from Monkey Point on the east to and including the Canal on the west, except—

(*a*) the land occupied by the Municipality of Rangoon;

(*b*) the land occupied by the military authorities as an approach to Godwin's Wharf and to an extent of one hundred feet on either side thereof;

(*c*) the land occupied by the military authorities for the defences at Monkey Point;

(*d*) the land assigned for railway purposes;

(*e*) the land occupied on the east side of East Street by the Department of Public Works;

(*f*) the land occupied by customs-officers' quarters and by the Master-Attendant's residence, office and compound.

II.—All other land belonging to Government within the limits of the present port of Rangoon lying within a line drawn at fifty yards from high-water mark, except—

(*a*) the land occupied by the Rangoon Gaol sawmill;

(*b*) the land occupied as Government timber-depôts at Ahlone and Monkey Point;

(*c*) the Dalla Dockyard and the lands attached thereto.

SCHEDULE B.

(*Referred to in section 26.*)

RECEIPT FOR GOODS.

By the Port Commissioners, Rangoon.

Landed during the day of from the , by the Port Commissioners, Rangoon, the noted in the margin; contents and state of the contents unknown.

NOTE.—*If there be any apparent injury, this is to be stated.*

For the Port Commissioners, Rangoon.

RANGOON;
The day of *A. B.*

THE BURMA DISTRICT CESSES AND RURAL POLICE ACT, 1880.

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ACT No. II OF 1880.

Received the Governor General's assent on the 24th January, 1880.

An Act to amend the law relating to District Cesses and Rural Police in Lower Burma.

Preamble. WHEREAS it is expedient to make better provision in Lower Burma for the maintenance of rural police and of a local postal service, the construction of works of public utility, sanitary improvement and the promotion of education;

And whereas it is also expedient to declare and amend the law relating to rural police in the said province;

It is hereby enacted as follows :—

Preliminary.

Short title. 1. This Act may be called the Burma District Cesses and Rural Police Act, 1880:

Commencement. and it shall come into force on such date as the Chief Commissioner of Lower Burma[a] may, by notification in the local Gazette,[b] direct.

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[a] Since Upper Burma was placed under the administration of the Chief Commissioner of Lower Burma, this officer is styled Chief Commissioner of Burma—see Proclamation, dated 25th September, 1886, Gazette of India, 25th *idem*, Pt. 1, p 539.

[b] The Act came into force on the 1st April, 1880—see Burma Gazette, 13th March, 1880, Pt. II, p. 55.

It extends to all the territories for the time being administered by the said Chief Commissioner: Local extent.

Provided that the said Chief Commissioner may from time to time, by notification in the local Gazette, exempt any portion of the said territories from its operation and cancel such exemption:

Provided also that nothing herein contained applies to any town to which the Burma Municipal Act, 1884,[a] for the time being extends. XVII of 1884.

2. In this Act, unless there is something repugnant in the subject or context,— Interpretation-clause.

"land-revenue" means revenue assessed upon land under the provisions of the Burma Land and Revenue Act, 1876[b]: and II of 1876.

"revenue-officer" means any person appointed a revenue-officer under the same Act.[b]

3. The following portions of the said Burma Land and Revenue Act, 1876,[b] are repealed (namely): sections 31 and 32, in sections 37 and 46 the words "five per cent. cess," and the word "cess" wherever it occurs in the said Act; but all cesses imposed under that Act shall be deemed to have been imposed under this Act. Repeal.

Cesses.

4. On all lands assessed to land-revenue there shall be levied in addition thereto an annual cess of ten per cent. on the amount of such revenue. Cess on land.

5. In every town, village or hamlet in which at the date on which this Act comes into force a house-tax is levied, such tax shall continue to be levied. Saving of existing house-tax.

6. The Chief Commissioner may from time to time, by notification in the local Gazette, direct that in any specified town, village or hamlet there shall be levied from the occupier of each house an annual cess, to be fixed in manner hereinafter provided, but which shall in no case exceed two rupees: Cess on houses.

Provided that such cess shall not be levied—

(*a*) in any place in which the house-tax referred to in section 5 is levied, or,

(*b*) in respect of any monastery, pagoda, sacred building, Government building, public rest-house or school:

Provided also that in respect of any house occupied by a person bound to pay cess under section 4 no larger amount shall be levied under this section than will, together with the cess so payable by such person, amount to two rupees.

[a] This Act has been substituted in s. 1 for Act VII of 1874—see Act XI of 1889, s. 100, *infra*, p 334.

[b] See *supra*, p 103.

"House" in this section means any building used as a human dwelling or for the custody of property.

Power to abolish or exempt from cess or tax.

7. The Chief Commissioner may from time to time, by notification in the official Gazette, direct that any tax or cess levied in any place under section 5. or section 6 shall cease, or that any person or class of persons shall be exempted from the whole or any specified part of such tax or cess.

Powers of Deputy Commissioner.

8. Subject to the other provisions of this Act and to any rules made hereunder and for the time being in force, the Deputy Commissioner of the district may from time to time—

(*a*) declare what shall, for the purposes of this Act, be held to be a house;

(*b*) fix the amount of cess to be levied in respect of each house;

(*c*) remit such cess in whole or in part.

Purposes to which funds are to be applied.

9. A separate account shall be kept for each district of all cesses and house-tax levied under this Act in such district; and such cesses and tax shall be appropriated in each year in that district, in such proportions as the Chief Commissioner may from time to time direct, to all or any of the following local objects (namely):—

(*a*)[a] the maintenance of the rural police appointed under this Act;

(*b*) the maintenance of a local postal service;

(*c*) the construction and maintenance of district-roads and other communications and the improvement of river-channels;

(*d*) other works of public utility;

(*e*) sanitary improvement; and

(*f*) the promotion of education:

Provided that the Chief Commissioner may, on the thirty-first day of March in any year, transfer the whole or part of any balance then standing under either of the heads (*b*) or (*c*) in the account of any district to the corresponding head in the account of any other district in the same division.

Time and mode of payment of cesses, &c.

10. All cesses and house-tax levied under this Act shall be payable for the year of assessment of land-revenue as fixed under the Burma Land and Revenue Act, 1876, section 41,[b] and shall be payable at the place at which, and to the person to whom the land-revenue is from time to time payable, or at such other place and to such other person as the Chief Commissioner may direct. II of 1876.

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[a] In places to which ss. 2 to 13 of the Lower Burma Village Act, 1889, are extended, substitute the following for s. 9, cl. (*a*):—

"(*a*) the remuneration of the headmen and the maintenance of the rural police appointed under the Lower Burma Village Act, 1889"—see Act III of 1889, s. 4, *infra*, p. 293.

[b] See *supra*, p. 115.

Sums assessed on the amount of land-revenue shall fall due on the date on which the land-revenue falls due.

Sums assessed on houses shall fall due on such dates as the Chief Commissioner may from time to time in that behalf direct.

Realization of cesses, &c.

11. All sums assessed under this Act on the amount of any land-revenue may be recovered as if they were part of such revenue.

All other sums payable under this Act may be recovered in the manner prescribed in sections 44 and 45 of the Burma Land and Revenue Act, 1876.[a]

II of 1876.

Rural Police.

Rural police.

12.[b] The rural police shall be of two classes—

(*a*) headmen of hamlets or groups of hamlets, or of villages or towns, or sections of villages or towns, hereinafter called headmen;

(*b*) headmen of circuits, hereinafter called goungs.

Appointment of rural police.

13.[b] Subject to the rules made under this Act and for the time being in force, the Deputy Commissioner of the district shall have power to appoint, suspend and remove headmen and goungs, and to fix the limits of the beats of headmen and the circuits of goungs:

Provided that all kyaydangyees and yazawut goungs holding office as such in any local areas on the date on which this Act comes into force shall be deemed to be respectively headmen and goungs appointed under this Act, and such local areas shall be deemed to have been fixed as their beats and circuits respectively under this Act.

Duties of headmen.

14.[b] Every headman shall perform the following duties, namely:—

(*a*) he shall give immediate information to the goung of the circuit in which his beat is situated, or the officer in charge of the police-station appointed for his beat, of all disputes within his beat which may come to his knowledge and which are likely to lead to any riot or serious affray:

(*b*) he shall report to the goung or police-officer aforesaid the arrival in, or in the neighbourhood of, his beat of suspicious characters and of persons who have been convicted under the Indian Penal Code, Chapter XII (*Of Offences relating to Coin and Government Stamps*) and Chapter XVII (*Of Offences against Property*), and the movements of all bad characters within his beat:

XLV of 1860.

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[a] See *supra*, p. 116.

[b] Ss. 12 to 21 (both inclusive) will be repealed in those parts of Lower Burma to which ss. 2 to 13 of the Lower Burma Village Act, 1899, are extended—see Act III of 1899, s. 1 (*6*), *infra*, p. 292.

(*c*) he shall report to the goung or police-officer aforesaid all breaches of laws and rules relating to excise and opium which occur within his beat and come to his knowledge:

(*d*) he shall to the best of his ability supply any local information which any Magistrate or revenue-officer or officer of police may require, and promptly execute all lawful orders issued to him by, or by authority of the Deputy Commissioner:

(*e*) he shall attend the revenue-officer of the circle, so long as such officer is within his beat for the purpose of assessing or collecting land-revenue, cesses or taxes, and shall give him all available information regarding the cultivation of land and other matters relating to the revenue:

(*f*) he shall, in accordance with such rules as may from time to time be made by the Chief Commissioner, keep up a register of all births, marriages and deaths within his beat, and collect and register any other vital statistics which may be prescribed by such rules:

(*g*) he shall afford all assistance in his power to Government officers, and, on the order of the Deputy Commissioner, to other persons, in procuring food, labour, carriage and other requisites of travel.

Duties of goungs.

15.[a] The duties of a goung in respect of his circuit shall, *mutatis mutandis*, be the same as those of a headman in respect of his beat.

Power of headmen and goungs to demand help.

16.[a] For the purpose of preventing the commission of any offence or arresting any offenders whom he is authorized to arrest, any headman or goung may require any male person between the ages of eighteen and sixty within his beat or circuit at the time to assist him in preventing the commission of such offence or in making such arrest, and in guarding and escorting the person arrested.

Obligation to render help.

Every person as aforesaid shall, in the absence of reasonable excuse, the burden of proving which shall lie upon him, be bound to comply with any requisition made to him under this section.

Powers and duties of Police officers may be conferred and imposed on headmen and goungs.

17.[a] The Chief Commissioner may from time to time, by notification in the local Gazette, make rules consistent with this Act—

(*a*) conferring upon headmen and goungs any powers, protection or privileges which may be exercised or enjoyed by a police-officer under any enactment for the time being in force;

(*b*) imposing upon headmen and goungs any duties imposed on a police-officer by any enactment for the time being in force; and,

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[a] Ss. 12 to 21 (both inclusive) will be repealed in those parts of Lower Burma to which ss. 2 to 13 of the Lower Burma Village Act, 1889, are extended—see Act III of 1889, s. 1 (6), *infra*, p. 292.

(*c*) regulating the exercise, enjoyment and discharge of such powers, protection, privileges and duties by such headmen and goungs.

Penalties for breach of duty.

18.[a] Every headman or goung who—

(*a*) is guilty of cowardice or of wilful misconduct in his office, or of neglect of duty; or

(*b*) except with the permission of the Deputy Commissioner, withdraws from the duties of his office without having given to the Deputy Commissioner at least two months' notice of his intention to withdraw from such duties; or

(*c*) offers any unnecessary personal violence to any person in his custody,

may, in addition to any other penalty to which he may be liable, be punished with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or both.

Bar of prosecution.

No complaint against a headman or goung of any act or omission punishable under this section shall be entertained by any Court unless the prosecution is instituted by order of, or under authority from the Deputy Commissioner.

Limitation of prosecution.

19.[a] No prosecution against any person for anything purporting to be done under section 14, 15 or 16, or under any rule made in exercise of the powers conferred by section 17 shall be commenced after the expiration of three months next after the act complained of has been committed.

Notice of suit to be given.

No suit shall be brought for anything so purporting to be done until the expiration of one month next after notice in writing has been delivered at the residence of such person, or at the office of the Deputy Commissioner of the district in which the act was done, stating the cause of suit and the name and place of abode of the plaintiff.

Previous tender of amends.

If any person to whom any such notice of suit is given shall before such suit is brought tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Protection to officers acting under warrant.

20.[a] No prosecution shall be instituted against any headman or goung for any act done by him in such capacity under the authority of a warrant issued by a Magistrate, notwithstanding any defect of jurisdiction in such Magistrate.

Miscellaneous.

Help in cases of dacoity and robbery.

21.[a] If within or in the immediate neighbourhood of any town, village or hamlet a dacoity or a robbery is committed or attempted, or dacoits or robbers

[a] Ss. 12 to 21 (both inclusive) will be repealed in those parts of Lower Burma to which ss. 2 to 13 of the Lower Burma Village Act, 1889, are extended—see Act III of 1889, s. 1 (6), *infra*, p. 202.

are harboured, sheltered or assisted, and if the inhabitants of such town, village or hamlet without reasonable excuse fail to render active assistance in preventing the offence or in arresting and securing the offenders, the Chief Commissioner may, after such enquiry as he deems necessary, impose upon such town, village or hamlet, or upon any section thereof, a fine, to be assessed upon the inhabitants according to his judgment of their respective means and of the circumstances of the case.

Powers and duties of revenue-officers.

22. For the purposes of this Act the Chief Commissioner may from time to time, by notification in the local Gazette, invest any revenue-officer with any of the powers, and impose on him any of the duties, with which he may invest him or which he may impose upon him under the Burma Land and Revenue Act, 1876,[a] and the rules framed under it. II of 1876.

Control of Commissioner and Chief Commissioner.

23. All proceedings of any Deputy Commissioner or revenue-officer under this Act shall be subject to control, revision and alteration by the Commissioner to whom he is subordinate and by the Chief Commissioner.

Power to make rules.

24. The Chief Commissioner may from time to time make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement.

All such rules and all other rules made under this Act shall be published in the local Gazette, and shall thereupon have the force of law.

THE VACCINATION ACT, 1880.

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2. Interpretation-clause.
3. Extension of Act to municipalities.
4. Extension to cantonments.
5. Power to withdraw local area from operation of Act.
6. Prohibition of inoculation.
   Inoculated persons not to enter, without certificate, local area subject to Act.

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[a] See *supra*, p. 103.

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7. Vaccination-circles.
Vaccinators.
Superintendent of vaccination.
8. Private vaccinators.
9. Unprotected children to be vaccinated.
Vaccinator to vaccinate children, or deliver certificates of postponement.
10. Inspection after vaccination.
11. Procedure when vaccination is successful.
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13. Procedure when child is unfit for vaccination.
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14. Certificates of insusceptibility of successful vaccination.
15. What lymph to be used.
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17. Duties of Superintendent of vaccination.
Notice to parent or guardian neglecting to comply with Act.
18. Order by Magistrate when notice not complied with.
Procedure when order not obeyed.
Magistrates to be non-official Natives.
19. Power to make rules for municipalities.
20. Power to make rules for cantonments.
21. What rules under sections 19 and 20 may provide for.
22. Punishment of offences.
23. Municipal funds to receive fines and meet expenditure.

BENGAL SECRETARIAT LIBRARY.

ACT No. XIII OF 1880.

Received the Governor General's assent on the 9th July, 1880.

An Act to give power to prohibit inoculation, and to make the vaccination of children compulsory, in certain Municipalities and Cantonments.

WHEREAS it is expedient to give power to prohibit inoculation, and make the vaccination of children compulsory, in certain municipalities and cantonments; It is hereby enacted as follows :— Preamble.

1. This Act may be called the Vaccination Act, 1880, and Short title.

it shall apply only to such municipalities and cantonments situate in the territories administered respectively by the Lieutenant-Governors of the North-Western Provinces and the Punjab, and the Chief Commissioners of Oudh, the Central Provinces, Lower Burma,[a] Assam, Ajmere and Coorg as it may be extended to in manner hereinafter provided. Application.

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[a] The territories are now known as Lower Burma—see Act XX of 1886, s. 2 (*1*) (*b*), *infra*, p. 364, and the Chief Commissioner is styled Chief Commissioner of Burma—see Proclamation, dated 25th September, 1886, Gazette of India, 25th *idem*, Pt. I, p. 539.

Interpretation-clause—

2. In this Act, unless there is something repugnant in the subject or context,—

"municipal commissioners:"

(1) the expression "municipal commissioners" means a body of municipal commissioners or a municipal committee constituted under the provisions of any enactment for the time being in force[a]:

"parent":

(2) "parent" means the father of a legitimate child and the mother of an illegitimate child:

"guardian":

(3) "guardian" includes any person who has accepted or assumed the care or custody of any child:

"unprotected child":

(4) "unprotected child" means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under this Act to be insusceptible to vaccination:

"inoculation":

(5) "inoculation" means any operation performed with the object of producing the disease of small-pox in any person by means of variolous matter:

"vaccination-circle":

(6) "vaccination-circle" means one of the parts into which a municipality or cantonment has been divided under this Act for the performance of vaccination:

"vaccinator":

(7) "vaccinator" means any vaccinator appointed under this Act to perform the operation of vaccination, or any private person authorized by the Local Government in manner hereinafter provided to perform the same operation; and includes a "Superintendent of vaccination:"

"vaccination-season":

(8) "vaccination-season" means the period from time to time fixed by the Local Government for any local area under its administration by notification in the official Gazette, during which alone vaccination may be performed under this Act.

Extension of Act to municipalities.

3. A majority in number of the persons present at a meeting of the municipal commissioners specially convened in this behalf may apply to the Local Government to extend this Act to the whole or any part of a municipality; and thereupon the Local Government may, if it thinks fit, by notification published in the official Gazette, declare its intention to extend this Act in the manner proposed.

Any inhabitant of such municipality or part thereof who objects to such extension may, within six weeks from the date of such publication, send his objection in writing to the Secretary to the Local Government; and the Local Government shall take such objection into consideration. When six weeks from the said publication have expired, the Local Government, if no such

[a] See Act XVII of 1884, s. 6, *infra*, p. 234.

objections have been sent as aforesaid, or (when such objections have been so sent) if in its opinion they are insufficient, may, by like notification, effect the proposed extension.[a]

Extension to cantonments.

4. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, extend this Act to the whole or any part of a military cantonment.[b]

Power to withdraw local area from operation of Act.

5. The Local Government may, by notification in the official Gazette, withdraw any local area in a municipality or, with the previous sanction of the Governor General in Council, any local area in a cantonment from the operation of this Act.

Prohibition of inoculation.

6. In any local area to which the provisions of this Act apply, inoculation shall be prohibited; and

Inoculated persons not to enter, without certificate, local area subject to Act.

no person who has undergone inoculation shall enter such area before the lapse of forty days from the date of the operation, without a certificate from a medical practitioner, of such class as the Local Government may from time to time by written order authorize to grant such certificates, stating that such person is no longer likely to produce small-pox by contact or near approach.

Vaccination-circles.

7. Every local area to which this Act applies shall be a vaccination-circle, or shall in manner hereinafter provided be divided into a number of such circles;

Vaccinators;

one or more vaccinators shall be appointed in manner hereinafter provided for each such circle; and

Superintendent of vaccination.

one or more Superintendents of vaccination shall be appointed in manner hereinafter provided for each such local area.

Private vaccinators.

8. The Local Government may by written license authorize private vaccinators to perform vaccination in any vaccination-circle, and may suspend or cancel any such license.

Unprotected children to be vaccinated.

9. When any unprotected child, having attained the age of six months, has resided for a period of one month during the vaccination-season in any local area to which the provisions of this Act apply, and has not at the expiration of such period attained the age, if a boy, of fourteen years, and if a girl, of eight years, the parent or guardian of such child shall take it, or cause it to be taken, to a vaccinator to be vaccinated, or send for a vaccinator to vaccinate it.

Vaccinator to vaccinate children, or

Such vaccinator shall vaccinate the child and deliver to its parent or guardian a memorandum stating the date on which the vaccination has been

[a] The Act has been extended under s. 3 to the municipalities of Akyab, Rangoon, Maulmain, Bassein, Henzada, Toungoo and Thayetmyo—see Burma Gazettes, 21st July, 1883, 26th April, 1884, 15th August, 1885, 22nd September, 1888, 5th January, 1889, and 11th May, 1889, Pt. I, pp. 223, 95, 275, 436, 10 and 221, respectively.

[b] The Act has also been extended under s. 4 to the Cantonments of Maulmain and Rangoon—see Burma Gazettes, 19th September, 1885, and 26th April, 1887, Pt, I, pp. 306 and 176, respectively.

deliver certificates of postponement.

performed and the date on which the child is to be inspected in order to ascertain the result of the operation, or shall, if he finds such child in a state unfit for vaccination, deliver to its parent or guardian a certificate under his hand to the effect that the child is in a state unfit for vaccination for the whole or part of the current vaccination-season.

Inspection after vaccination.

10. The parent or guardian of every child which has been vaccinated under section 9 shall, on the date of inspection stated in the memorandum, take the child, or cause it to be taken, to a vaccinator for inspection or get it inspected at his own house by a vaccinator; and

such vaccinator shall then append to the memorandum a certificate stating that the child has been inspected and the result of such inspection.

Procedure when vaccination is successful.

11. When it is ascertained at the time of inspecting a child under section 10 that the vaccination has been successful, a certificate shall be delivered by the vaccinator to the parent or guardian of such child to that effect, and such child shall thereafter be deemed to be protected.

Procedure when vaccination is unsuccessful.

12. When it is ascertained as aforesaid that the vaccination has been unsuccessful, the parent or guardian shall, if the vaccinator so direct, cause the child to be forthwith again vaccinated and subsequently inspected in manner hereinbefore provided.

Procedure when child is unfit for vaccination.

13. A certificate granted under section 9 showing the unfitness of a child for vaccination shall remain in force for the period stated therein, and, on the termination of that period, or, if that period terminates after the vaccination-season is over, when the next vaccination-season begins, the parent or guardian of such child shall take the child, or cause it to be taken, to a vaccinator to be vaccinated, or procure its vaccination at his own house by a vaccinator:

Renewal of postponement-certificates.

Provided that, if the child is still found to be in a state unfit for vaccination, the certificate granted under section 9 shall be renewed.

Certificates of insusceptibility of successful vaccination.

14. If the Superintendent of vaccination is of opinion that a child which has been three times unsuccessfully vaccinated is insusceptible of successful vaccination, he shall deliver to the parent or guardian of such child a certificate under his hand to that effect; and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

What lymph to be used.

15. The vaccination of a child shall ordinarily be performed with such lymph as may be prescribed by the rules to be made under this Act:

Provided that,

First, if animal-lymph is so prescribed and the parent or guardian of any

child desires that such child shall be vaccinated with human lymph, it shall be so vaccinated; and

Second, if in any local area in which animal-lymph is procurable human lymph is so prescribed, and the parent or guardian of any child desires that such child should be vaccinated with animal-lymph, and tenders to the vaccinator the amount of such fee, not exceeding one rupee, as may be fixed by such rules in this behalf, such child shall be so vaccinated.

No fee to be charged except by private vaccinator.

16. No fee shall be charged by any vaccinator except a private vaccinator to the parent or guardian of any child for any of the duties imposed on such vaccinator by or under the provisions of this Act:

Proviso.

Provided that it shall be lawful for a vaccinator to accept a fee for vaccinating a child by request of the parent or guardian elsewhere than in the circle for which such vaccinator is appointed.

Duties of Superintendent of vaccination.

17. The Superintendent of vaccination, in addition to the other duties imposed on him by, or under the provisions of this Act, shall ascertain whether all unprotected children, under the age of fourteen years if boys, and under the age of eight years if girls, within the local area under his superintendence have been vaccinated; and, if he has reason to believe that the parent or guardian of any such child is bound by the provisions hereinbefore contained to procure the vaccination of such child or to present it for inspection, and has omitted so to do, he shall personally go to the house of such parent or guardian, and there make enquiry, and shall, if the fact is proved, forthwith deliver to such parent or guardian, or cause to be affixed to his house, a notice requiring that the child be vaccinated, or (as the case may be) that it be presented for inspection, at a time and place to be specified in such notice.

Notice to parent or guardian neglecting to comply with Act.

Order by Magistrate when notice not complied with.

18. If such notice is not complied with, the Superintendent of vaccination shall report the matter to the Magistrate of the district, or such Magistrate as the Local Government or the Magistrate of the district may from time to time appoint in this behalf; and the Magistrate receiving such report shall summon the parent or guardian of the child and demand his explanation, and shall, if such explanation is not satisfactory, make an order in writing directing such parent or guardian to comply with the notice before a date specified in the order.

Procedure when order not obeyed.

If on such date the order has not been obeyed, the Magistrate shall summon the parent or guardian before him, and, unless just cause or excuse is shown, shall deal with the disobedience as an offence punishable under section 22.

Magistrates to be non-official Natives.

The Magistrates appointed under this section shall, as far as is conveniently practicable, be Natives of India, and not paid servants of the Government.

Power to make rules for municipalities.

19. When this Act has been applied to any municipality or any part thereof, the municipal commissioners may from time to time make rules consistent with this Act for the proper enforcement of this Act within the limits to which it applies. Such rules shall be made in the manner in which, under the law for the time being in force,[a] the Commissioners make rules or bye-laws for the regulation of other matters within the limits of the municipality, and shall when confirmed by the Local Government and published in the official Gazette have the force of law:

Provided that the Local Government may at any time rescind or modify any such rule.

Power to make rules for cantonments.

20. When this Act has been applied to any cantonment or any part thereof, the Local Government may from time to time, subject to the control of the Governor General in Council, make such rules.

What rules under sections 19 and 20 may provide for.

21. The rules to be made for any local area under sections 19 or 20 may, among other matters, provide for—

(*a*) the division of such local area into circles for the performance of vaccination;

(*b*) the appointment of a place in each vaccination-circle as a public vaccine-station, and the posting of some distinguishing mark in a conspicuous place near such station;

(*c*) the qualifications to be required of public vaccinators and Superintendents of vaccination;

(*d*) the authority with which their appointment, suspension and dismissal shall rest;

(*e*) the time of attendance of public vaccinators at the vaccine-stations, and their residence within the limits of the vaccination-circles;

(*f*) the distinguishing mark or badge to be worn by them;

(*g*) the amount of fee chargeable by private vaccinators, and their guidance generally in the performance of their duties;

(*h*) the facilities to be afforded to people for procuring the vaccination of their children at their own houses;

(*i*) the grant and form of certificates of successful vaccination, of unfitness for vaccination, or of insusceptibility of vaccination;

(*j*) the nature of the lymph to be used and the supply of a sufficient quantity of such lymph;

[a] See Act XVII of 1884, s. 148, *infra*, p. 274.

(*k*) the fee to be paid for vaccination with animal-lymph under section 15;

(*l*) the fee to be paid to a public vaccinator for vaccinating a child beyond the vaccination-circle at the request of the parent or guardian of the said child;

(*m*) the preparation and keeping of registers showing—

the names of children born in such local area on or after the date of the application of this Act;

the names of unprotected children born in such local area previous to the application of this Act, and who are, at the time this Act is applied, under the age of fourteen years if boys, and of eight years if girls;

the names of unprotected boys and girls respectively under those ages brought within such local area at any time after the application of this Act and who have resided there for a month;

the result of each vaccination or its postponement, and the delivery of certificates, if any;

(*n*) the assistance to be given by the municipal commissioners and municipal servants in the preparation of these registers, and in other matters; and,

(*o*) the preparation of vaccination-reports and returns.

Punishment of offences.

22. Whoever commits any of the undermentioned offences (that is to say) :—

(*a*) violates the provisions of section 6,

(*b*) neglects without just excuse to obey an order made under section 18,

(*c*) breaks any of the rules made under section 19 or 20, or,

(*d*) neglects without just cause to obey an order made under section 18 after having been previously convicted of so neglecting to obey a similar order made in respect of the same child,

shall be punished as follows (that is to say) :—

in the case of the offence mentioned in clause (*a*), with simple imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both;

in the case of the offences mentioned in clauses (*b*) and (*c*), with fine which may extend to fifty rupees; and,

in the case of the offence mentioned in clause (*d*), with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Municipal funds to receive fines and meet expenditure.

23. The amount of all fees and fine realized, and the amount of all expenditure incurred, under this Act in any municipality shall respectively be credited to, and paid from, the municipal fund.

ACT No. II of 1881.

Received the Governor General's assent on the 1st January, 1881.

An Act to regulate the Navigation of the Pegu and Sittang Canal, and to provide for the protection of the said Canal and the execution of works necessary for its maintenance.

Preamble.

WHEREAS the Government has constructed a canal connecting the waters of the Pegu and Sittang rivers, partly by digging artificial channels and partly by using the water-bed of the Ka-ya-zoo creek; and whereas it is necessary to provide for the navigation, protection and maintenance of the said canal; It is hereby enacted as follows:—

Preliminary.

Short title.

1. This Act may be called the Pegu and Sittang Canal Act, 1881;

Commencement.

and it shall come into force at once.

Interpretation-clause—

2. In this Act, unless there is something repugnant in the subject or context,—

"the canal"

(1) "the canal" means the Pegu and Sittang canal, and includes—

(*a*) all channels and reservoirs now or hereafter constructed, maintained or controlled by the Government for the supply or storage of water in connection with the said canal, or supplemental thereto, between the Sittang lock, situated at Myit-kyo, on the Sittang river, and the Pegu lock, situated near the village of Sin-o-bo, on the Pegu river;

(*b*) all works, embankments, structures and supply and escape channels connected with the canal or with the said channels and reservoirs;

(*c*) all lands occupied by the Government for the purposes of the said canal, and all buildings, machinery, fences, gates and other erections, trees, crops, plantations or other produce occupied by or belonging to the Government, upon such lands:

"vessel"

(2) "vessel" includes boats, rafts, timber and other floating bodies:

"Canal-officer":

(3) "Canal-officer" means an officer appointed under this Act by the Chief Commissioner to exercise control over the canal or any part thereof:

"Superintending Canal-officer".

(4) "Superintending Canal-officer" means an officer exercising general control over the canal.

Power to appoint officers.

3. The Chief Commissioner may from time to time declare, by notification in the Burma Gazette, the officers by whom, and the local limits within which all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

Navigation of the Canal.

Tolls to be levied from vessels using the canal.

4. Such tolls as the Chief Commissioner may from time to time, by notification in the Burma Gazette, direct, shall be levied from all vessels entering or navigating the canal.

Power to detain vessels violating rules.

5. Any vessel entering or navigating the canal contrary to the rules made in that behalf under this Act by the Chief Commissioner, or so as to cause danger to the canal or to the other vessels therein, may be removed or detained, or both removed and detained, by a Canal-officer, or by any other person duly authorized under section 3 in that behalf.

The owner of any vessel causing damage to the canal, or removed or detained under this section, shall be liable to pay to the Government such charge as the Canal-officer, with the approval of the Superintending Canal-officer, determines to be necessary to defray the cost of repairing such damage, or of such removal or detention, as the case may be.

Power to detain vessel on failure to pay tolls or charges.

6. If any toll or charge due under this Act in respect of any vessel is not paid on demand to the person authorized to collect the same, the Canal-officer may seize and detain such vessel and the furniture thereof, until such toll or charge, together with all expenses arising from such seizure and detention, is paid in full.

Power to seize cargo or goods if charges due thereon are not paid.

7. If any charge due to the Government in respect of any cargo or goods carried in a Government vessel on the canal, or stored on or in lands or warehouses occupied for the purposes of the canal, is not paid on demand to the person authorized to collect the same, the Canal-officer may seize such cargo or goods, and detain it or them until the charge so due, together with all expenses arising from such seizure and detention, is paid in full.

Power to sell property seized under section 6 or 7.

8. Within a reasonable time after any seizure under section 6 or section 7, the Canal-officer shall give notice to the owner or person in charge of the property seized, that it, or such portion of it as may be necessary, will, on a day to be named in the notice, but not sooner than twenty-one days from the date of the notice, be sold in satisfaction of the claim on account of which such property is detained, unless the claim is discharged before the day so named;

and, if such claim is not so discharged, the Canal-officer may, on such day, sell the property seized, or such part thereof as may be necessary to yield the amount due, together with the expenses of such seizure and sale.

The residue (if any) of such property, and of the proceeds of the sale, shall be made over to the owner or person in charge of the property seized.

Procedure in respect of

9. If any vessel is found abandoned in the canal, or any cargo or goods

vessels abandoned and goods unclaimed.

carried in a Government vessel on the canal, or stored on or in lands or warehouses occupied for the purposes of the canal, is, or are left unclaimed for a period of two months, the Canal-officer may take possession of the same.

Power to sell

The officer so taking possession shall publish a notice, in such manner as the Chief Commissioner may from time to time by rule direct, that if such vessel and its contents, or such cargo or goods, is, or are not claimed previously to a day to be named in the notice, not sooner than thirty days from the date of such notice, he will sell the same; and, if such vessel, contents, cargo or goods is, or are not so claimed, he may, at any time after the day named in the notice, proceed to sell the same.

Disposal of proceeds of sale.

The said vessel and its contents, and the said cargo or goods, if unsold, or, if a sale has taken place, the proceeds of the sale, after paying all tolls and charges due in respect of the vessel, cargo or goods and all expenses incurred by the Canal-officer on account of the taking possession and sale, shall be made over to the owner of the same, when his ownership is established to the satisfaction of the Canal-officer.

If the Canal-officer is doubtful to whom such property or proceeds should be made over, he may direct the property to be sold and the proceeds to be paid into the district-treasury, there to be held until the right thereto is decided by a Court of competent jurisdiction.

Maintenance of the Canal.

Power of Canal-officer to enter on land and remove obstructions, &c.

10. A Canal-officer, empowered by the Commissioner of the division generally or specially in this behalf, or any other person acting under the general or special order of such officer, may enter on any land in the neighbourhood of the canal and remove any obstructions, and may close any channels and do any other thing necessary or convenient for the maintenance of the canal.

Power to enter and survey, &c.

11. Any such officer or other person may, for the purposes of any enquiry relating to any part of the canal under the charge of such officer, enter upon any such lands, and undertake surveys or levels thereon, and dig and bore into the subsoil;

and make and set up suitable landmarks, level-marks and water-gauges;

and do all other acts necessary for such purposes;

Power to clear land.

and, where otherwise such enquiry cannot be completed, such officer or other person may cut down and clear away any part of any standing crop, fence or jungle.

Power to

12. In case of any accident happening or being reasonably apprehended to

the canal, any such officer or other person may enter upon any such lands, and may execute all works which may be necessary for the purpose of repairing or preventing such accident. enter, to repair and to prevent accidents.

13. In every case of entry under section 10, 11 or 12, the Canal-officer shall tender, as soon as may be reasonably practicable, to the owner or occupiers of the land, compensation for any damage which may be occasioned by such entry and by any proceeding under such section. Compensation for damage caused by entry.

In case of dispute as to the sufficiency of the amount so tendered, the Canal-officer shall forthwith refer the same for decision by the Deputy Commissioner, whose decision thereon shall be final.

Obtaining Labour and Materials for Work on the Canal.

14. Whenever it appears to a Canal-officer that, unless some work is immediately executed, such serious damage will happen to the canal as will cause sudden and extensive public injury, Procedure for obtaining labour and materials for works urgently required.

and that the labourers or materials necessary for the proper execution of such work cannot be obtained in the ordinary manner within the time that can be allowed for the execution of such work so as to prevent such damage,

such officer may, by order under his hand, direct that the provisions of this section shall be put into operation for the execution of such work, and thereupon—

(*a*) every able-bodied person whose name appears in the list hereinafter mentioned shall, if required so to do by such officer or by any person authorized by him in this behalf, be bound to assist in the execution of such work by labouring thereon as such officer or other person directs, and,

(*b*) such officer or any person authorized by him in this behalf may enter into and upon any immoveable property in the neighbourhood of the canal, and take possession of, appropriate and remove any trees or bamboos, whether standing or not, and any timber, mats, ropes or other materials found in or upon such property, and use the same for the purposes of such work.

Every person authorized as mentioned in this section shall be deemed to be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

15. Subject to such rules as the Chief Commissioner may from time to time, with the previous sanction of the Governor General in Council, prescribe in this behalf, the Deputy Commissioners of Rangoon and Shweygyin shall prepare lists of persons residing in the neighbourhood of the canal in the said districts Deputy Commissioner to prepare list of persons liable to serve.

respectively, and liable to be required under section 14 to assist as aforesaid, and may from time to time add to or alter such list or any part thereof.

Payment for labour impressed and materials taken.

16. All persons labouring or detained for the purpose of labouring in compliance with a requisition made under section 14, or whose materials may be taken under that section, shall, as soon as may be reasonably practicable, be paid by the Canal-officer for their labour and detention, or for such materials (as the case may be), at a rate not being less than 25 per cent. above the highest market-rates for similar labour or materials for the time being prevailing in the neighbourhood.

Any dispute arising between the Canal-officer and any person as to the amount to be paid to such person under this section may be referred by either party to the Deputy Commissioner, whose decision thereon shall be final.

Compensation for damage done in taking materials

17. Whenever, from the removal, under section 14, of any trees, bamboos or other materials, any damage over and above the price payable for such materials results directly to any person, the Canal-officer shall pay to such person such sum as may be agreed upon as compensation for such damage. In case of dispute as to the amount so to be paid, either party may refer such dispute to the Deputy Commissioner, whose decision thereon shall be final.

Offences and Penalties.

Offences under Act.

18. Whoever, without proper authority and voluntarily, does any of the acts following, that is to say :—

(*a*) damages, alters or obstructs the canal ;

(*b*) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under the canal ;

(*c*) interferes with or alters the flow of water in any river or stream, so as to endanger or damage the canal or render it less useful ;

(*d*) corrupts or fouls the water of the canal, so as to render it less fit for the purposes for which it is ordinarily used ;

(*e*) causes any vessel to enter or navigate, or to remain at any place in, the canal contrary to the rules for the time being prescribed by the Chief Commissioner for entering, navigating or remaining in the canal ;

(*f*) while navigating the canal, neglects to take proper precautions to prevent injury to the canal and to vessels therein ;

(*g*) being a person liable to labour under section 14, refuses or neglects without reasonable cause so to labour ;

(*h*) destroys or moves any landmark, level-mark or water-gauge fixed by the authority of a Canal-officer ;

(*i*) passes or causes animals or vehicles to pass on or across any of the works, banks or channels of the canal contrary to rules made under this Act, after he has been desired by a Canal-officer to desist therefrom ; or

(*j*) pastures any animals on the banks of the canal, or knowingly suffers any animals belonging to him or under his charge to graze on such banks ;

shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both. Penalty.

Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act : Saving of prosecution under other laws.

Provided that no person shall be punished twice for the same offence.

19. Any fine imposed under this Act upon the owner of any vessel, or the servant or agent of such owner, or any other person in charge of a vessel, for any offence in respect of the navigation of such vessel, may be recovered either in the manner prescribed by the Code of Criminal Procedure, 1882[a], or, if the Magistrate imposing the fine so directs, as though it were a charge under this Act due in respect of such vessel. Recovery of fines for offences in navigating canal.

V of 1882.

20. Any person duly authorized in this behalf under section 3 may remove from the lands or buildings belonging to the canal, or may arrest without a warrant, and take forthwith before a Magistrate or to the nearest police-station, to be dealt with according to law, any person who, within his view, commits any of the offences mentioned in clauses (*a*), (*b*) and (*c*) of section 18. Power to arrest without warrant.

Power to make Rules.

21. The Chief Commissioner may, subject to the control of the Governor General in Council, from time to time make rules consistent with this Act to regulate the following matters :— Power to make rules.

(*a*) the navigation of the canal ;

(*b*) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter ;

(*c*) the amount of any tolls leviable under this Act ; and,

(*d*) generally, to carry out the provisions of this Act.

The Chief Commissioner may, in making any such rule, attach to the breach of it the penalty specified in section 18.

Such rules shall be published in the Burma Gazette, and shall thereupon have the force of law. Publication of rules.

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[a] See Act X of 1882, s. 3, and ss. 386-389.

Validation of past Proceedings.

Validation of past proceedings.

22. Anything heretofore done which might legally have been done if this Act had been in force shall be deemed to have been done in accordance with law.

THE BURMA FOREST ACT, 1881.

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ACT No. XIX OF 1881.

Received the Governor General's assent on the 31st August, 1881.

An Act to amend the law relating to Forests, Forest-produce and the duty leviable on Timber in Lower Burma.

WHEREAS it is expedient to amend the law relating to forests, forest- Preamble.

produce, and the duty leviable on timber in Lower Burma; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called the Burma Forest Act, 1881:

Local extent. It extends to all the territories for the time being administered by the Chief Commissioner of Lower Burma[a]:

Provided that the Chief Commissioner may, by notification in the official Gazette, exempt any place from its operation; but not so as to affect anything done, or any offence committed, or any fine or penalty incurred, or any proceedings commenced in such place before such exemption; and

Commencement. it shall come into force on such day as the Chief Commissioner may, by notification in the official Gazette, direct.[b]

Repeal of enactments. 2. On and from such day the enactments and rules mentioned in the schedule hereto annexed shall be repealed to the extent mentioned in the third column of the same schedule.

Interpretation-clause— 3. In this Act, and in all rules made hereunder, unless there is something repugnant in the subject or context,—

"Forest-officer": "Forest-officer" means all persons appointed by name or as holding an office by or under the orders of the Governor General in Council or the Chief Commissioner to be—

Conservators, Deputy Conservators, Assistant Conservators, Sub-Assistant Conservators, Forest-rangers, Foresters or Forest-guards, or to discharge any function of a Forest-officer under this Act or any rule made hereunder:

"tree": "tree" includes also bamboos, stumps and brushwood:

'timber': "timber" includes trees when they have fallen or have been felled, and all wood, whether cut up or fashioned or hollowed out for any purpose or not:

"forest-produce": "forest-produce" includes the following things when found in, or brought from, a forest (that is to say):—

minerals (including limestone and laterite), surface-soil, trees, timber, plants, grass, peat, canes, creepers, reeds, leaves, moss, flowers, fruits, seeds, roots, juice, catechu, bark, caoutchouc, gum, wood-oil, resin, varnish, lac, charcoal, honey and wax;

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[a] The territories are now known as Lower Burma—see Act XX of 1886, s. 2 (*1*) (*b*), *infra*, p. 364, and the Chief Commissioner is styled Chief Commissioner of Burma—see Proclamation, dated 25th September, 1886, Gazette of India, 25th *idem*, Pt. I, p. 589.

[b] The Act came into force on the 1st July, 1882—see Burma Gazette, 25th March, 1882, Pt. I, p. 125.

"forest-offence" means an offence punishable under this Act or any rule made hereunder: "forest-offence":

"cattle" includes also elephants, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids: "cattle":

"river" includes also streams, canals, creeks and other channels, natural or artificial: "river":

"land at the disposal of Government" means— "land at the disposal of Government":

(*a*) land in respect of which no person has acquired the status of a land-holder under section 7 of the Burma Land and Revenue Act, 1876[a]; II of 1876.

(*b*) land in respect of which no person has acquired any right created by grant or lease made by, or on behalf of, the British Government:

"Magistrate" means a Magistrate of the first or second class, and includes a Magistrate of the third class when he is specially empowered by the Chief Commissioner to try forest-offences. "Magistrate".

4. Nothing in the Burma Land and Revenue Act, 1876, shall be deemed to affect or ever to have affected any right by which one person is entitled to remove and appropriate, for his own profit, any part of the soil belonging to another person or to the Government, or anything growing in, or attached to, or subsisting upon, the land of another person or of the Government. Saving of rights of profit from the Burma Land and Revenue Act, 1876.

CHAPTER II.

Of Reserved Forests.

5. The Chief Commissioner may constitute any land at the disposal of Government a reserved forest in manner hereinafter provided. Power to reserve forests.

6. Whenever it is proposed to constitute any land a reserved forest, the Chief Commissioner shall publish a notification in the official Gazette— Notification by Chief Commissioner.

(*a*) specifying as nearly as possible the situation and limits of such land:

(*b*) declaring that it is proposed to constitute such land a reserved forest;

(*c*) appointing an officer (hereinafter called "the Forest-Settlement-officer") to inquire into and determine the existence, nature and extent of any rights claimed by, or alleged to exist in favour of, any person in or over any land comprised within such limits, and any claims relating to the practice within such limits of toungya cultivation, and to deal with the same as provided in this chapter.

[a] See *supra*, p. 106.

The officer appointed under clause (*c*) of this section shall ordinarily be a person other than a Forest-officer; but a Forest-officer may be appointed by the Chief Commissioner to assist the Forest-Settlement-officer in the inquiry prescribed by this chapter.

Proclamation by Forest-Settlement-officer.

7. When a notification has been published under section 6, the Forest Settlement-officer shall publish in the language of the country, at the head-quarters of each township in which any portion of the land comprised in such notification is situate, and in every town and village in the neighbourhood of such land, a proclamation—

(*a*) specifying as nearly as possible the situation and limits of the proposed forest;

(*b*) setting forth the substance of the provisions of section 8;

(*c*) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and

(*d*) fixing a period of not less than three months from the date of publishing such proclamation, and requiring every person claiming any right or making any claim referred to or mentioned in section 6 either to present to such officer within such period a written notice specifying, or to appear before him within such period and state, the nature of such right or claim.

Bar of accrual of forest-rights.

8. During the interval between the publication of such proclamation and the date fixed by the notification declaring the forest to be reserved as hereinafter provided, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by, or on behalf of, the Government or some person in whom such right, or power to create the same, was vested when the proclamation was published; and, on such land, no new house shall be built or plantation formed, no fresh clearings for cultivation or for any other purpose shall be made, and no trees shall be cut for the purpose of trade or manufacture, except as hereinafter provided.

Prohibition of building, clearing, &c.

Nothing in this section shall be deemed to prohibit any act done with the permission in writing of the Forest-Settlement-officer, or any clearings lawfully made for toungya cultivation by persons in the habit of practising such cultivation on such land.

Inquiry by Forest-Settlement-officer.

9. The Forest Settlement-officer shall take down in writing all statements made under section 7 and shall inquire into all claims made under that section, and the existence of any right or practice mentioned in section 6 in respect of which no claim is made. The Forest-Settlement-officer shall at the same time consider and record any objection which the Forest-officer (if any), appointed

under section 6 to assist him, may make to any such claim or to the existence of any such right or practice.

Powers of Forest-Settlement-officer.

10. For the purposes of such inquiry the Forest-Settlement-officer may exercise the following powers (that is to say) :—

V of 1880. (*a*) the powers of a demarcation-officer under the Burma Boundaries Act, 1880[a]; and

XIV of 1882. (*b*) the powers conferred on a Civil Court by the Code of Civil Procedure[b] for compelling the attendance of witnesses and the production of documents.

Claims relating to practice of toungya cultivation how dealt with.

11. In the case of a claim relating to the practice of toungya cultivation, the Forest-Settlement-officer shall pass an order specifying the particulars of such claim and permitting, or refusing to permit, such practice wholly or in part.

If such practice is permitted wholly or in part, the Forest-Settlement-officer may—

(*a*) alter the limits of the proposed reserved forest so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimants; or

(*b*) cause certain portions of the reserved forest to be separately demarcated, and give permission to the claimants to practice toungya cultivation under such rules and conditions as he may prescribe.

No right to practise toungya cultivation shall be deemed to be conferred by an order under this section permitting such practice, and, except with the sanction of the Chief Commissioner, such cultivation shall only be practised by the person to whom such permission is granted.

Power to acquire land over which right is claimed.

12. In the case of a claim to a right in or over any land other than the following rights :—

(*a*) a right of way,

(*b*) a right to a watercourse, and to use of water,

(*c*) a right of pasture, or to forest-produce,

the Forest-Settlement-officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

If such claim is admitted wholly or in part, the Forest-Settlement-officer may (1) come to an agreement with the claimant for the surrender of the right; or (2) exclude the land from the limits of the proposed forest; or (3) proceed to acquire such land in the manner provided by the Land Acquisition

X of 1870. Act, 1870.

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[a] See *supra*, p. 43.

[b] See Act XIV of 1882, s. 3, and Chap. XIV.

For the purpose of so acquiring such land—

(i) the Forest-Settlement-officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1870;

(ii) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 9 of that Act;

(iii) the provisions of the preceding sections of that Act shall be deemed to have been complied with; and,

(iv) the Collector, with the consent of the claimant, or the Court, with the consent of both parties, may award compensation in land, or partly in land and partly in money.

Order on claims to rights of way, watercourse, pasture and to forest-produce.

13. In the case of a claim to rights of the kind specified in clauses (*a*), (*b*) and (*c*) of section 12, the Forest-Settlement-officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

When a claim to any such right is admitted, if the right is for the beneficial enjoyment of any land or buildings, he shall record the designation, position and area of such land, and the designation and position of such buildings.

Where the right is a right to forest-produce, he shall also record whether the forest-produce obtained by the exercise of such right may be sold or bartered, and such other particulars as may be necessary in order to define the nature, incidents and extent of the right.

Provision for rights of pasture or to forest-produce admitted.

14. When the Forest-Settlement-officer has admitted wholly or in part, and recorded under section 13, a claim to a right of pasture or to forest-produce, he shall as far as possible provide for the exercise of such right—

(*a*) by altering the limits of the proposed reserved forest so as to exclude land of sufficient extent, of a suitable kind and in a locality reasonably convenient for the purposes of the claimant;

(*b*) by recording an order continuing to the claimant a right of pasture or to forest-produce (as the case may be), subject to such rules as may be prescribed by the Chief Commissioner.

The order passed under clause (*b*) shall record, as far as practicable, the number and description of the cattle which the claimant is from time to time entitled to graze, the local limits within which, and the seasons during which, such pasture is permitted; or,

the quantity of timber or other forest-produce which the claimant is authorized to take or receive, the local limits within which, the season during which, and the mode in which, the taking of such produce is permitted; and,

such other particulars as may be required in order to define the extent of the right which is continued, and the mode in which it may be exercised.

Commutation of such rights.

15. Whenever any right of pasture or to forest-produce admitted under section 13 is not provided for in one of the ways prescribed in section 14, the Forest-Settlement-officer shall, subject to such rules as the Chief Commissioner may prescribe in this behalf, commute such right by paying a sum of money in lieu thereof, or, with the consent of the claimant, by the grant of land, or in such other manner as such officer thinks fit.

For the purpose of granting land under this section, the Forest-Settlement-officer shall be deemed to be an Assistant Commissioner in charge of a sub-division.

Appeal from order passed under foregoing sections.

16. Any person who has made a claim under this chapter may, within three months from the date of any order passed on such claim by the Forest-Settlement-officer under section 11, 12, 13, 14 or 15, present an appeal from such order to such officer of the Revenue Department, of rank not lower than that of a Deputy Commissioner, as the Chief Commissioner may, by notification in the official Gazette, appoint by name, or as holding an office, to hear appeals from such orders.

Appeal under section 16.

17. Every appeal under section 16 shall be made by petition in writing, and may be delivered to the Forest-Settlement-officer, who shall forward it without delay to the officer competent to hear the same.

Hearing of appeals.

Every such appeal shall be heard in the manner prescribed for the time being for the hearing of appeals in matters relating to land-revenue, and the order passed thereon by such officer shall be final, except as hereinafter provided.

Notification declaring forest reserved.

18. When the following events have occurred (namely):—

(*a*) the period fixed under section 7 for preferring claims has elapsed, and all claims (if any) made within such period have been disposed of by the Forest-Settlement-officer, and,

(*b*) if such claims have been made, the period fixed by section 16 for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of by the appellate officer, and,

(*c*) all lands (if any) to be included in the proposed forest, which the Forest-Settlement-officer has, under section 12, elected to acquire under the Land Acquisition Act, 1870, have become vested in the Government under section 16 of that Act,

X of 1870.

the Chief Commissioner may publish a notification in the official Gazette,

specifying the limits of the forest which it is intended to reserve, and declaring the same to be reserved from a date fixed by such notification.

From the date so fixed such forest shall be deemed to be a reserved forest.

Extinction of rights not claimed.

19. Rights in respect of which no claim has been preferred under section 7, and of the existence of which no knowledge has been acquired by enquiry under section 9, shall thereupon be extinguished, unless, before the publication of such notification, the person claiming them has satisfied the Forest-Settlement-officer that he had sufficient cause for not preferring such claim within the period fixed under section 7.

Publication of translation of such notification in neighbourhood of forest.

20. The Deputy Commissioner of the district in which the forest is situate shall, before the date fixed by such notification, cause a translation thereof in the language of the country to be published in the manner prescribed for the proclamation under section 7.

Power to revise arrangement made under section 11, 14 or 17.

21. The Chief Commissioner may, within five years from the publication of any notification under section 18, revise any arrangement made under section 11, 14 or 17, and may rescind or modify any order made under this chapter, and direct that any one of the proceedings specified in section 14 be taken in lieu of any other of such proceedings, or that the permission granted under section 11, or rights admitted under section 13, be commuted under section 15.

No right acquired over reserved forest except as here provided.

22. No right of any description shall be acquired in or over a reserved forest, except by succession, or under a grant or contract in writing made by, or on behalf of, the Government, or some person in whom such right, or the power to create such right, was vested when the notification under section 18 was published.

Rights not to be alienated without sanction.

23. Notwithstanding anything herein contained, no right continued under section 14 shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the Chief Commissioner:

Provided that, when any such right is continued for the beneficial enjoyment of any land or house, it may be sold or otherwise alienated with such land or house without such sanction.

No timber or other forest-produce obtained in exercise of any right so continued shall be sold or bartered except to the extent defined by the order recorded under section 14.

Power to stop ways and watercourses in reserved forest.

24. Any Forest-officer may from time to time, with the previous sanction of the Chief Commissioner or of any officer duly authorized in that behalf, stop any public or private way or watercourse in a reserved forest:

Provided that for the way or watercourse so stopped another way or water-

course, which in the opinion of the Chief Commissioner is equally convenient, already exists, or has been provided or constructed by such Forest-officer.

Penalties for trespass or damage in reserved forests.

25. Any person who, in a reserved forest—

(*a*) trespasses, or pastures cattle, or permits cattle to trespass,

(*b*) causes any damage by negligence in felling any tree or cutting or dragging any timber,

(*c*) strips off the bark or leaves from or otherwise damages any tree,

(*d*) in contravention of any rules made by the Chief Commissioner, hunts, shoots, fishes, poisons water or sets straps or snares,

shall be punished with fine which may extend to fifty rupees, or when the damage resulting from his offence amounts to more than twenty-five rupees, to double the amount of such damage.

Acts prohibited in such forests.

26. Any person who—

(*a*) makes any fresh clearing prohibited by section 8, or,

(*b*) sets fire to a reserved forest, or kindles any fire, or, in contravention of any rules made by the Chief Commissioner, leaves any fire burning in such manner as to endanger the same,

or who, in a reserved forest,

(*c*) kindles, keeps or carries any fire except at such seasons and in such manner as a Forest-officer specially empowered in this behalf may from time to time notify,

(*d*) fells, girdles, lops, taps or burns any tree,

(*e*) quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process, or removes, any forest-produce,

(*f*) clears or breaks up any land for cultivation or any other purpose,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both, in addition to such compensation for damage done to the forest as the convicting Court may direct to be paid.

Acts excepted from prohibition contained in sections 25 and 26.

27. Nothing in section 25 or section 26 shall be deemed to prohibit (*a*) any act done in accordance with any rule made by the Chief Commissioner or with the permission in writing of a Forest-officer specially empowered to grant such permission; or (*b*) any practice of toungya cultivation permitted under section 11; or (*c*) the exercise of any right continued under section 14 or created by grant or contract in the manner described in section 22.

Penalty for offences committed by persons having rights in reserved forests.

28. Whenever fire is caused wilfully or by gross negligence in a reserved forest by any person having rights in such forest, or having permission to practise toungya cultivation therein, or by any person in his employment, or whenever any person having rights in such forest contravenes the provisions

of section 23, the Chief Commissioner may (notwithstanding that a penalty has been inflicted under section 26 in respect of such fire) direct that in such forest or any specified portion thereof the exercise of all or any of the rights of pasture or to forest-produce shall be extinguished or suspended for such period as he thinks fit, and may withdraw any permission to practise toungya cultivation in such forest or portion.

Power to declare forest no longer reserved.

29. The Chief Commissioner may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, direct that, from a date fixed by such notification, any forest or any portion thereof reserved under this Act shall cease to be reserved.

From the date so fixed, such forest or portion shall cease to be reserved; but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

Forests reserved under former rules.

30. Any forest which has been declared a reserved forest under any rules in force previous to the day on which this Act comes into force shall be deemed to have been reserved hereunder;

and all questions decided, orders issued and records prepared in connection with the reservation of such forest shall be deemed to have been decided, issued and prepared hereunder, and all provisions of this Act relating to reserved forests shall apply to such forest.

CHAPTER III.

OF VILLAGE-FORESTS.

Constitution of village-forests.

31. The Chief Commissioner may, by notification in the official Gazette, constitute any land at the disposal of Government a village-forest for the benefit of any village-community or group of village-communities, and may in like manner vary or cancel any such notification.

Every such notification shall specify the limits of such village-forest.

Teak trees in village-forest the property of Government.

32. All teak trees in a village-forest shall be deemed to be the property of Government; and no person shall cut, mark, lop, girdle or injure by fire or otherwise any such trees without the permission in writing of a Forest-officer specially empowered to grant such permission.

Power to make rules for village-forests.

33.[a] The Chief Commissioner may make rules for regulating the management of village-forests, prescribing the conditions under which the community or group of communities for the benefit of which any such forest is constituted may be provided with timber or other forest-produce or with pasture, and their duties in respect of the protection and improvement of such forest.

[a] As to rules under the Act, see footnote on p. 195.

(Chap. III.—Of Village-forests. Sec. 34. Chap. IV.—Of the Protection of certain Trees and Natural Produce. Secs. 35-37.)

The Chief Commissioner may, by such rules, declare any of the provisions of Chapter II of this Act to be applicable to village-forests.

Saving of private rights.

34. Nothing in this chapter shall be deemed to affect any existing rights of any person in or over any village-forest.

Power to inquire into and deal with such rights.

The Chief Commissioner may in any case direct that all claims to any such rights, other than the rights of the village-community or group of village-communities for the benefit of which such village-forest is constituted, shall be inquired into, recorded and provided for in the manner prescribed by Chapter II of this Act.

CHAPTER IV.

Of the Protection of certain Trees and Natural Produce.

Reserved trees.

35. All teak trees standing on any land not included in a reserved or village-forest shall be deemed to be the property of Government and shall be reserved trees.

The Chief Commissioner may, by notification in the official Gazette,—

(*a*) declare that any other trees or any specified class of other trees standing on any land at the disposal of Government shall, from a date to be fixed by such notification, be reserved trees;

(*b*) vary or cancel any such notification;

(*c*) declare that any teak trees standing on land other than land at the disposal of Government shall, from a date to be fixed by such notification, cease to be the property of Government and to be reserved trees.

Protection of reserved trees.

36. No person shall cut, mark, lop, girdle, tap or injure by fire or otherwise any reserved tree, except as provided by rules made by the Chief Commissioner in this behalf, or with the permission in writing of a Forest-officer specially empowered to grant such permission.

Whoever cuts, marks, lops, girdles, taps or injures by fire or otherwise, any reserved tree in contravention of this section shall be punished with fine which may extend to twenty rupees, or when the damage resulting from his offence amounts to more than ten rupees, to double the amount of such damage.

Power to make rules generally.

37.[a] No person shall make use of the pasturage or of the natural produce of any land at the disposal of Government and not included in a reserved or village-forest, except in accordance with rules which may be prescribed by the Chief Commissioner. Such rules may, with respect to such land,—

(*a*) regulate or prohibit the cutting of toungyas, or the issue of grants

[a] As to rules under the Act, see footnote on p. 195.

or leases by Government with respect to land on which teak trees are growing;

(*b*) regulate or prohibit the kindling of fires, and prescribe the precautions to be taken to prevent the spreading of fires;

(*c*) regulate or prohibit the cutting, sawing, conversion and removal of trees and timber, and the collection and removal of natural produce;

(*d*) regulate or prohibit the quarrying of stone, the boiling of catch or the burning of lime or charcoal;

(*e*) regulate or prohibit the cutting of grass and pasturing of cattle, and regulate the payments (if any) to be made for such cutting or pasturing;

(*f*) regulate or prohibit hunting, shooting, fishing, poisoning water and setting traps or snares;

(*g*) regulate the sale or free grant of timber or other natural produce; and,

(*h*) prescribe, or authorize any Forest-officer to prescribe, subject to the control of the Chief Commissioner, the fees, royalties or other payments for such timber or other natural produce, and the manner in which such fees, royalties or other payments shall be levied whether in transit, or partly in transit, or otherwise.

Penalties for acts in contravention of rules.

The Chief Commissioner may, by such rules, prescribe, as penalties for the infringement thereof, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

The Chief Commissioner may exempt any person or class of persons or any local area from the operation of any such rule, and may cancel such exemption.

Nothing in this chapter to prohibit acts done in certain cases.

38. Nothing in this chapter or in any rule made under this chapter shall be deemed to prohibit any act done wit the permission in writing of a Forest-officer specially empowered to grant such permission, or in the exercise of any right.

CHAPTER V.

Of the Duty on Timber.

Power to impose duty on timber.

39. The Chief Commissioner may levy a duty, in such manner, at such places, and at such rates, as he may prescribe by notification in the official Gazette, on all timber which is brought into Lower Burma from any place beyond the frontier of Lower Burma.

In every case in which such duty is directed to be levied *ad valorem*, the Chief Commissioner may, by like notification, fix the value on which such duty shall be assessed. Power to fix value for *ad valorem* duty.

40. On all teak timber cut within the limits of the Attaran forest and floated down the Attaran river, duty shall be levied at the following rates, that is to say:— Duty on certain timber floated down the Attaran.

	Rs.	a.	p.	
On logs above five feet in girth	4	0	0	per log.
Ditto below „ „	2	0	0	„
On stem pieces	0	9	0	per piece.
On ship crooks	0	4	0	per crook.

These rates shall not apply to timber for which special rates have been fixed by any agreement entered into with Government.

41. The Chief Commissioner may exempt any timber from the duty to which it is liable under section 39 or section 40, and revoke such exemption. Power to exempt timber from duty.

42. Nothing in this chapter shall be deemed to limit the amount (if any) chargeable as purchase-money or royalty on any timber. Provisions of chapter not to limit purchase-money or royalty.

CHAPTER VI.

Of the Control of Timber in Transit.

43. The control of all rivers and their banks as regards the floating of timber, as well as the control of all timber in transit by land or water, is vested in the Chief Commissioner, and he may make rules to regulate the transit of all timber.[a] Power to make rules to regulate transit of timber.

Such rules may (among other matters)—

(*a*) prescribe the routes by which alone timber may be imported into, exported from or moved within Lower Burma;

(*b*) prohibit the import and export or moving of such timber without a pass from an officer duly authorized to issue the same, or otherwise than in accordance with the conditions of such pass:

(*c*) provide for the issue, production and return of such passes;

(*d*) fix, or authorize any Forest-officer to fix, subject to the control of the Chief Commissioner, the fees payable for such passes;

(*e*) in the case of timber formed into a raft or fastened to the shore, prohibit the loosening or the setting adrift of such timber by any

[a] As to rules under the Act, see footnote on p. 195.

person not the owner thereof, or not acting on behalf of such owner or of the Government;

(*f*) provide for the stoppage, reporting, examination and marking of timber in transit in respect of which there is reason to believe that any money is payable to Government, or to which it is desirable, for the purposes of this Act, to affix a mark;

(*g*) establish, or authorize any Forest-officer to establish, subject to the control of the Chief Commissioner, stations to which such timber shall be taken by those in charge of it for examination, or for the realization of such money, or in order that such mark may be affixed to it; and the conditions under which such timber shall be brought to, stored at and removed from such station;

(*h*) provide for the management and control of such stations, and for regulating the appointment and duties of persons employed thereat;

(*i*) authorize the transport of timber the property of Government across any land, and regulate the compensation to be paid for any damage done by the transport of such timber;

(*j*) prohibit the closing up or obstruction of the channel or banks of any river used for the transit of timber, and the throwing of grass brushwood, branches and leaves into any such river, or any other act which tends to cause the obstruction of such channel;

(*k*) provide for the prevention and removal of any obstruction in the channel or on the banks of any such river, and for recovering the cost of such prevention or removal, from the person, or by the sale of any timber, causing such obstruction;

(*l*) prohibit absolutely, or subject to conditions within specified local limits, the establishment of sawpits, the converting, cutting, burning, concealing, marking or supermarking of timber, the altering or effacing of any marks on the same, and possession or carrying of marking-hammers or other implements used for marking timber;

(*m*) regulate the use of property-marks for timber, and the registration of such marks; declare the circumstances in which the registration of any property-marks may be refused or cancelled; prescribe the time for which such registration shall hold good; limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration.

Penalties for breach of rules made under section 43.

44. The Chief Commissioner may, by such rules, prescribe, as penalties for the infringement thereof, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

In cases where the offence is committed after sunset and before sunrise, or after making preparation for resistance to the execution of any law or any legal process, or where the offender has been previously convicted of a like offence, the convicting Magistrate may inflict double the penalty prescribed for such offence.

All persons bound to aid in case of accident at station.

45. In case of any accident or emergency involving danger to any property at any such station, every person employed at such station, whether by the Government or by any private person, shall render assistance to any Forest-officer or Police-officer demanding his aid in averting such danger and securing such property from damage or loss.

CHAPTER VII.

OF THE COLLECTION OF DRIFT, STRANDED AND OTHER TIMBER.

Certain kinds of timber to be deemed property of Government until title thereto proved.

46. All timber found adrift, beached, stranded or sunk,

all timber bearing marks which have not been registered under rules made under section 43,

all timber which has been supermarked, or on which the marks have been obliterated, altered or defaced by fire or otherwise, and,

in such areas as the Chief Commissioner directs, all unmarked timber,

shall be deemed to be the property of Government unless and until any person establishes his right thereto as provided in this chapter.

Power to collect the same.

Such timber may be collected by any Forest-officer or other person entitled to collect the same, and may be brought to such stations as a Forest-officer specially empowered in this behalf may from time to time notify as stations for the reception of drift-timber.

The Chief Commissioner may, by notification in the official Gazette, exempt any class of timber from the provisions of this section, and withdraw such exemption.

Notice to claimants of drift-timber.

47. Public notice shall from time to time, as occasion may require, be given by a Forest-officer specially empowered in this behalf, of timber collected, under section 46. Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not less than one month from the date on which such notice is given, a written statement of such claim.

Procedure on

48. When any such statement is presented as aforesaid, the Forest-officer

claim preferred to such timber.

may, after making such inquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant.

If such timber is claimed by more than one person, the Forest-officer may either deliver the same to any of such persons whom he deems entitled thereto, or may refer the claimants to the Civil Court and retain the timber pending the receipt of an order from such Court for its disposal.

On rejection of claim to such timber, claimant may institute suit.

Any person whose claim has been rejected under this section may, within two months from the date of such rejection, institute a suit to recover possession of the timber claimed by him; but no person shall recover any compensation against the Government or against any Forest-officer on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this section.

No such timber shall be subject to process of any Civil Court until it has been delivered, or a suit brought under this section has been decided.

Disposal of unclaimed timber.

49. If no statement is presented in the manner and within the period prescribed by the notice issued under section 47, or, where such statement having been so presented, and, the claim having been rejected, the claimant omits to institute a suit to recover possession of such timber within the further period mentioned in section 48, the ownership of such timber shall vest in the Government free from all incumbrances; or, when such timber has been delivered to another person under section 48, in such other person, free from all incumbrances not created by him.

Payments to be made by claimant before timber is delivered to him.

50. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the Forest-officer, or other person entitled to receive it, such sum on account thereof as may be due for salving, collecting, moving, storing and disposing of the same.

Power to make rules and prescribe penalties.

51.[a] The Chief Commissioner may make rules to regulate the following matters (namely):—

(*a*) the salving, collection and disposal of all timber mentioned in section 46;

(*b*) the use and registration of boats used in salving and collecting timber;

(*c*) the amount to be paid for salving, collecting, moving, storing and disposing of such timber; and,

(*d*) the use and registration of hammers and other instruments to be used for marking such timber.

The Chief Commissioner may, by such rules, prescribe, as penalties for the infringement thereof, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

[a] As to rules under the Act, see footnote on p. 195.

CHAPTER VIII.

PENALTIES AND PROCEDURE.

Seizure of property liable to confiscation.

52. When there is reason to believe that a forest-offence has been committed in respect of any timber or forest-produce, such timber or produce, together with all tools, boats, carts and cattle used in committing any such offence, may be seized by any Forest-officer or Police-officer.

Report to Magistrate.

Every officer seizing any property under this section shall place on such property, or the receptacle (if any) in which it is contained, a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Provided that, when the timber or forest-produce with respect to which such offence is believed to have been committed is the property of Government and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

Procedure thereupon.

53. Upon the receipt of any such report, the Magistrate shall take such measures as may be necessary for the trial of the accused and the disposal of the property according to law.

Timber, forest-produce, tools, &c., when liable to confiscation.

54. When any person is convicted of a forest-offence, all timber or forest-produce in respect of which such offence has been committed, and all tools, boats, carts and cattle used in committing such offence, shall be liable, by order of the convicting Magistrate, to confiscation.

Such confiscation may be in addition to any other punishment prescribed for such offence.

Disposal, on conclusion of trial for forest-offence, of produce in respect of which it was committed.

55. When the trial of any forest-offence is concluded, any timber or forest-produce in respect of which such offence has been committed shall, if it is the property of Government, or has been confiscated, be taken possession of by a Forest-officer specially empowered in this behalf; and in any other case may be disposed of in such manner as the Court may order.

Procedure when offender not known or cannot be found.

56. When the offender is not known or cannot be found, the Magistrate enquiring into the offence, if he finds that an offence has been committed, may, on application in this behalf, order the property in respect of which the offence has been committed to be confiscated and taken possession of by a Forest-officer specially empowered in this behalf, or to be made over to such Forest-officer or other person as the Magistrate considers entitled to the same:

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person

(if any) claiming any right thereto, and the evidence (if any) which he may produce in support of his claim.

The Magistrate shall either cause a notice of any application under this section to be served upon any person whom he has reason to believe is interested in the property seized, or shall publish such notice in any way which he thinks fit.

Procedure as to perishable property seized under section 52.

57. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 52 and subject to speedy and natural decay, and may deal with the proceeds as he might have dealt with such property if it had not been sold.

Appeal from orders under sections 54, 55 and 56.

58. Any person claiming to be interested in property seized under section 52 may, within one month from the date of any order passed under section 54, section 55 or section 56, present an appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

Property when to vest in Government.

59. When an order for the confiscation of any property has been passed under section 54 or 56, and the period limited by section 58 for presenting an appeal from such order has elapsed, and no such appeal has been presented, or when, on such an appeal being presented, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or portion, as the case may be, shall vest in the Government free from all incumbrances.

Saving of power to release property seized.

60. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the Chief Commissioner from directing at any time the immediate release of any property seized under section 52 and the withdrawal of any charge made in respect of such property.

Punishment for wrongful seizure.

61. Any Forest-officer or Police-officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Any fine so imposed, or any portion thereof, shall, if the convicting Magistrate so direct, be given as compensation to the person aggrieved by such seizure.

Penalty for counterfeiting or defacing marks in trees and timber and for altering boundary-marks.

62. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code— XLV of 1860.

(*a*) knowingly counterfeits upon any timber or standing tree a mark used by Forest-officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person, or

(*b*) unlawfully affixes to any timber or standing tree a mark used by Forest-officers, or,

(*c*) alters, defaces or obliterates any such mark placed on any timber or standing tree by or under the authority of a Forest-officer, or,

(*d*) alters, moves, destroys or defaces any boundary-mark of any forest or waste-land to which any provisions of this Act apply,

shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

Power to arrest without warrant.

63. Any Forest-officer or Police-officer may, without orders from a Magistrate and without a warrant, arrest any person reasonably suspected of having been concerned in any forest-offence punishable with imprisonment for one month or upwards, if such person refuses to give his name and residence, or gives a name or residence which there is reason to believe to be false, or if there is reason to believe that he will abscond.

Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested before a Magistrate having jurisdiction in the case.

Power to prevent commission of offence.

64. Every Forest-officer and Police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

Operation of other laws not barred.

65. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes a forest-offence, or from being liable under such other law to any higher punishment or penalty than that provided by this Act or the rules made hereunder:

Provided that no person shall be punished twice for the same offence.

Power to compound offences.

66. Any Forest-officer specially empowered in this behalf may accept from any person reasonably suspected of having committed any forest-offence other than an offence under section 61 or section 62 a sum of money by way of compensation for the offence which may have been committed; and, where any property has been seized as liable to confiscation, may release the same on payment of the value thereof as estimated by such officer.

On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the accused person, if in custody, shall be discharged, the property seized shall be released, and no further proceedings shall be taken against such person or property.

Presumption that timber or forest-produce belongs to Government.

67. When in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any timber or forest-produce is the property of the Government, such timber or produce shall be presumed to be the property of the Government until the contrary is proved.

CHAPTER IX.

CATTLE-TRESPASS.

Cattle-trespass Act, 1871, to apply.

68. Cattle trespassing in a reserved forest or in a village-forest shall be deemed to be cattle doing damage to a public plantation within the meaning of section 11 of the Cattle-trespass Act, 1871, and may be seized and impounded as such by any Forest-officer or Police-officer. I of 1871.

Power to alter fines fixed by that Act.

69. The Chief Commissioner may, by notification in the official Gazette, direct that, in lieu of the fines fixed by section 12 of the Act last aforesaid, there shall be levied for each head of cattle impounded under section 68 of this Act such fines as he thinks fit, but not exceeding the following (that is to say):

	Rs.	A.
For each elephant	10	0
For each buffalo	2	0
For each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer	1	0
For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid .	0	8

CHAPTER X.

OF FOREST-OFFICERS.

Chief Commissioner may invest Forest-officers with certain powers.

70. The Chief Commissioner may invest any Forest-officer by name, or as holding an office, with the following powers (that is to say):—

(*a*) the powers of a Demarcation-officer under the Burma Boundaries Act, 1880[a]; V of 1880.

(*b*) the powers of a Civil Court to compel the attendance of witnesses and the production of documents;

(*c*) power to issue search-warrants under the Code of Criminal Procedure, 1882;[b] X of 1882.

(*d*) power to hold inquiries into forest-offences, and in the course of such inquiries to receive and record evidence;

(*e*) power to notify seasons and manner in which fire may be kindled, kept or carried in a reserved forest;

(*f*) power to grant any permission referred to in section 27, 32, 36 or 38;

(*g*) power to notify stations for the reception of drift timber;

(*h*) power to give public notice of timber collected under section 46;

(*i*) power to take possession of property under this Act;

(*j*) power to direct the release of property or withdrawal of charges;

[a] See *supra*, p. 43. [b] Now Act X of 1882—see s. 3, *ibid.*

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(*k*) power to accept compensation for forest-offences;

and may withdraw any powers so conferred.

Any evidence recorded under clause (*d*) of this section shall be admissible in any subsequent trial before a Magistrate of the alleged offender:

Provided that it has been taken in the presence of the accused person, and recorded in the manner provided by section 355, section 356 or section 357 of the Code of Criminal Procedure, 1882.[a]

X of 1882.

71. All Forest-officers shall be deemed to be public servants within the meaning of the Indian Penal Code. Forest-officers deemed public servants.

XLV of 1860.

72. No suit or criminal prosecution shall lie against any public servant for anything done or omitted by him in good faith under this Act. Indemnity for acts done in good faith.

73. Except with the permission in writing of the Chief Commissioner, no Forest-officer shall, as principal or agent, trade in timber or forest-produce, or be or become interested in any lease or mortgage of any forest, or in any contract for working any forest, whether in British or foreign territory. Forest-officers not to trade.

CHAPTER XI.

MISCELLANEOUS.

74. The Chief Commissioner may make rules consistent with this Act— Additional powers to make rules.

(*a*) to declare by what Forest-officer or class of Forest-officers the powers or duties conferred or imposed by or under this Act on a Forest-officer shall be exercised or performed;

(*b*) to regulate the procedure of Forest-Settlement-officers;

(*c*) to regulate the rewards to be paid to officers and informers from the proceeds of fines and confiscations under this Act or from the public treasury; and,

(*d*) generally to carry out the provisions of this Act.

75. All rules made by the Chief Commissioner under this Act shall be published in the official Gazette, and shall thereupon have the force of law.[b] Rules when to have force of law.

All powers conferred by this Act on the Chief Commissioner may be exercised from time to time as occasion requires. Powers of Chief Commissioner exercisable from time to time.

[a] These sections of the new Code in s. 70 have been substituted for ss. 333-335 of the Code of 1872—see Act X of 1882, s. 3.

[b] For rules under the Act applying to Lower Burma, except the Arakan Commissionership, see Burma Gazette, 13th January, 1883, Pt. I, p. 13, and for amendments of the same, see Burma Gazettes, 5th July, 1884, Pt. I, p. 182, 2nd August, 1884, Pt. I, p. 211, 29th November, 1884, Pt. I, p. 294, 14th March, 1885, Pt. I, p. 92, 9th May, 1885, Pt. I, p. 174, 13th November, 1886, Pt. I, p. 343, 10th September, 1887, Pt. I, p. 364, 8th October, 1887, Pt. I, p. 393, 19th November, 1887, Pt. I, p. 447, 15th September, 1888, Pt. I, p. 410, and 26th January, 1889, Pt. I, p. 44.

Persons bound to assist Forest-officer and Police-officer.

76. Every person who exercises any right in a reserved forest or a village-forest, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle or to practise toungya cultivation in, such forest, and

every person who is employed by any such person in such forest, and,

every person in any village contiguous to such forest who is employed by the Government, or who receives emoluments from the Government for services to be performed to the community,

shall be bound to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information he may possess respecting the occurrence of a fire in or near such forest, or the commission of, or intention to commit, any forest-offence; and shall assist any Forest-officer or Police-officer demanding his aid—

(*a*) in extinguishing any fire occurring in such forest;

(*b*) in preventing any fire which may occur in the vicinity of such forest from spreading to such forest;

(*c*) in preventing the commission in such forest of any forest-offence; and,

(*d*) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

Recovery of money due to Government.

77. All money, other than fines, payable to the Government under this Act, or under any rule made hereunder, or on account of the price of any timber or forest-produce, or of expenses incurred in the execution of this Act in respect of such timber or forest-produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land-revenue.

Lien on Forest-produce for such money.

78. When any such money is payable for, or in respect of, any forest-produce, the amount thereof shall be deemed to be a first charge on such produce; and such produce may be taken possession of by a Forest-officer specially empowered in this behalf, and may be retained by him until such amount has been paid.

Power to sell such produce.

If such amount is not paid when due, such Forest-officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.

The surplus (if any), if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to Government.

Government and its officers not liable for loss or damage in

79. The Government shall not be responsible for any loss or damage which may occur in respect of any timber while at a station established under a rule made under section 43, or while detained elsewhere for the purposes of this Act, or in respect of any timber collected under section 46; and no Forest-

officer shall be responsible for any such loss or damage unless he causes the same negligently, maliciously or fraudulently. respect of certain timber.

80. Whenever it appears to the Chief Commissioner that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of the Land Acquisition Act, 1870, section 4. Land required under this Act to be deemed to be needed for a public purpose under Land Acquisition Act.

X of 1870.

SCHEDULE.

(*See section 2.*)

Number and year of Act or Regulation.	Title.	Extent of repeal.
Act VII of 1865 .	An Act to give effect to rules for the management and preservation of Government forests.	So much as has not been repealed.
Act VII of 1869 .	An Act to give validity to certain rules relating to forests in British Burma.	The whole.
Act XIII of 1873 .	An Act to amend the law relating to timber floated down the rivers of British Burma.	So much as has not been repealed.
Regulation IX of 1874	The Arakan Hill District Laws Regulation, 1874.	So far as it relates to Acts VII of 1865 and VII of 1869.
	The Rules for the better management and preservation of the Government Forests in British Burma, dated the second day of August, 1865.	The whole.

THE BURMA STEAM-BOILERS AND PRIME-MOVERS ACT, 1882.

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FIRST SCHEDULE.—FORM OF LICENSE.
SECOND SCHEDULE.—REPORT OF ENGINEER.
THIRD SCHEDULE.—FORM OF LICENSE TO BE ENDORSED ON REPORT OF ENGINEER.

ACT No. XVIII OF 1882.

Received the Governor General's assent on the 18th August, 1882.

An Act to provide for the inspection of Steam-boilers and Prime-movers attached thereto in Lower Burma.

Preamble. WHEREAS it is expedient to provide in Lower Burma for the inspection of steam-boilers and prime-movers attached thereto, and for the management of the same by competent engineers; It is hereby enacted as follows:—

Short title. 1. (*1*) This Act may be called the Burma Steam-boilers and Prime-movers Act, 1882.

Commencement. (*2*) It shall, except where it is otherwise expressed, come into force on such day as the Chief Commissioner of Lower Burma,[a] with the previous sanction of the Governor General in Council, may, by notification in the Burma Gazette, direct.[b]

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[a] Since Upper Burma was placed under the administration of the Chief Commissioner of Lower Burma, this officer is styled Chief Commissioner of Burma—see Proclamation, dated 25th September, 1886, Gazette of India, 25th *idem*, Pt. I, p. 589.

[b] The Act came into force on the 1st February, 1883—see Burma Gazette, 2nd December, 1882, Pt. I, p. 614.

(*3*) It extends in the first instance only to the towns of Rangoon, Maulmain, Akyab and Bassein; but the Chief Commissioner may from time to time, by notification in the Burma Gazette, extend it, from such date as may be specified in the notification, to any other local area in the territories[a] administered by him. Local extent.

(*4*) Nothing in this Act shall apply to any locomotive engine used on a railway, or to any engine on board of a ship, launch or boat. Savings.

2. In this Act, unless there is something repugnant in the subject or context,— Definitions.

"boiler" includes any vessel used for generating steam under pressure; "boiler":

"prime-mover," includes any steam-engine, and a fly-wheel, first driving shaft or pulley when attached to any such engine: "prime-mover":

"owner" includes also any person using any boiler or prime-mover as agent of the owner thereof, and any person using a boiler or prime-mover which he has hired from the owner thereof: "owner":

"Inspector" means a person appointed under this Act to be an Inspector. "Inspector".

3. (*1*) The Chief Commissioner may, at any time after the passing of this Act, and from time to time, appoint such persons to be Inspectors as he thinks fit, and suspend or remove any person so appointed. Appointment of Inspectors.

(*2*) The persons so appointed shall, within such local area as the Chief Commissioner may from time to time direct, exercise the powers and perform the duties conferred and imposed by or under this Act on an Inspector.

4. The Chief Commissioner may, at any time after the passing of this Act, and from time to time, make rules regulating the examination of, and the grant (with or without examination) of certificates to, persons to act as engineers of the first or second class [b]or as engine-drivers[b] under this Act, and the cancellation of certificates so granted. Examination of, and grant of certificates to, engineers or engine-drivers.

5. (*1*) After such day as the Chief Commissioner may, by notification in the Burma Gazette, fix in this behalf, a boiler or prime-mover shall not be used unless a license authorising its use has been granted under this Act and is in force. Use of boiler or prime-mover without license prohibited.

(*2*) Such a license shall not be granted in respect of a boiler or prime-mover unless it is in charge of an engineer, [b]or in the case of a boiler or prime-mover attached to an engine of not more than twenty horse-power of an engineer or engine-driver,[b] to whom a certificate has been granted in

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[a] These territories are now known as Lower Burma—see Act XX of 1886, s. 2 (*1*) (*b*), *infra*, p. 364.

[b-b] These words in ss. 4, and 5 (*2*) have been inserted by Act I of 1885, ss. 2 and 3—see *infra*, p. 291.

accordance with the rules made under section 4 and its condition has been ascertained as hereinafter provided.

On notice from owner, Inspector to examine boiler or prime-mover.

6. (*1*) When the owner of a boiler or prime-mover desires to obtain a license in respect thereof, he shall give notice of his intention to use the boiler or prime-mover to the Inspector for the local area within which it is situate.

(*2*) On receipt of the notice, the Inspector shall appoint a day and time, after sunrise and before sunset, for the inspection of the boiler or prime-mover. The day so appointed shall be a day, if the boiler or prime-mover is situate in the town of Rangoon, Maulmain, Akyab or Bassein, not later than seven days, and, if it is situate elsewhere, not later than thirty days, from the day on which the notice is received.

(*3*) On the day and at the time so appointed, the Inspector shall carefully examine the boiler or prime-mover, and every part thereof; and the owner or person in charge thereof shall afford to the Inspector all reasonable facilities for the examination, and all such information regarding the boiler or prime-mover as he may reasonably require.

Inspector may require owner to alter boiler or prime-mover.

7. If, on making the examination under section 6, the Inspector is of opinion that the boiler or prime-mover requires any alteration or addition, he shall refuse to grant a license until the alteration or addition is made, and shall serve on the owner of the boiler or prime-mover a written notice of his refusal, specifying the alteration or addition which, in his opinion, is required.

When Inspector to grant license.

8. When the Inspector is satisfied—

(*a*) that the boiler or prime-mover is in good condition, and not so exposed as to be likely to be dangerous, and

(*b*) that the boiler or prime-mover is in charge of an engineer,[a] or in the case of a boiler or prime-mover attached to an engine of not more than twenty horse-power of an engineer or engine-driver,[a] to whom a certificate has been granted in accordance with the rules made under section 4,

he shall give to the owner thereof a written license, signed by him, in the form prescribed in the first schedule hereto annexed, or a form to the like effect, on payment, by the owner, of such fee as the Chief Commissioner may by rule prescribe.

Licensing of boilers, &c., in charge of certain engineers.

9. (*1*) When a boiler or prime-mover is in charge of an engineer who has obtained, in accordance with the rules made under section 4, a certificate as engineer of the first class, the Chief Commissioner may, by an order in writing, direct that the report of that engineer shall, for the purpose of granting a license under this Act in respect of that boiler or prime-mover, be received as sufficient evidence of the matters referred to in section 8, clause (*a*).

[a-a] These words in s. 8 (*b*) have been inserted by Act I of 1885, s. 3—see *infra*, p. 291.

(*2*) The Chief Commissioner may rescind any order made under clause (*1*).

(*3*) If the owner of any boiler or prime-mover, in respect of which an order under clause (*1*) is in force, presents to the Inspector, at the time of giving notice in respect of that boiler or prime-mover under section 6, a report in respect of that boiler or prime-mover in the form prescribed in the second schedule hereto annexed, or a form to the like effect, and signed by the engineer mentioned in the order, and pays to the Inspector such fee as aforesaid, the Inspector shall, notwithstanding anything hereinbefore contained, endorse on the report a license in the form prescribed in the third schedule hereto annexed, or a form to the like effect, without examining the boiler or prime-mover.

License to state period for which it is to be in force.

10. Every license granted under this Act shall state the period for which it is to continue in force, and shall cease to be in force on the expiration of that period.

Revocation or suspension of license.

11. Any person authorised by the Chief Commissioner in this behalf may revoke or suspend any license granted under this Act in respect of any boiler or prime-mover when he has reason to believe—

(*a*) that the license has been fraudulently obtained, or has been granted erroneously, or without sufficient examination; or

(*b*) that the boiler or prime-mover in respect of which it has been granted is not in charge of an engineer, [a]or in the case of a[a] boiler or prime-mover attached to an engine of not more than twenty horse-power of an engineer or engine-driver,[a] to whom a certificate has been granted in accordance with the rules made under section 4, or is not in good condition, or has, since the granting of the license, sustained injury; or,

(*c*) where the license has been granted under section 9, that the boiler or prime-mover has ceased to be under the charge of the engineer on whose report the license was granted.

Appeal against refusal, revocation or suspension of license.

12. (*1*) The owner of any boiler or prime-mover may appeal from any order made under this Act refusing to grant, or revoking or suspending, a license.

(*2*) The appeal shall, within seven days from the day on which the owner received the order appealed against, be presented to some person authorised by the Chief Commissioner to hear appeals hereunder.

(*3*) Every such person shall be deemed to be a public servant within the

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[a-a] These words in s. 11 (*b*) have been inserted by Act I of 1885, s. 5—see *infra*, p. 291.

meaning of the Indian Penal Code, and may, if he thinks fit, summon to his assistance, in such manner as the Local Government may from time to time direct, two competent assessors; and those assessors shall attend and assist accordingly. XLV of 1860.

(*4*) If the person hearing the appeal is satisfied that the owner is entitled to the license, he shall, on payment of the fee, grant a license in such form as the Chief Commissioner may from time to time, by rule, prescribe, or shall cancel the order revoking or suspending the license, as the case may be.

(*5*) If the person hearing the appeal is of opinion that the order appealed against is right, he shall dismiss the appeal; and the costs of the appeal incurred by Government and certified by him shall be recoverable from the appellant, as a fine, by any Magistrate having jurisdiction in the place where the boiler or prime-mover is situate.

Power of Inspector to enter place or building.

13. An Inspector may at any time enter into any place or building where he has reason to believe that a boiler or prime-mover is used without a license, or under a license granted under section 8, or on appeal from an order refusing a license under that section, for the purpose of inspecting and examining the same.

Penalties.

14. Every owner, or person in charge, of any boiler or prime-mover who—

(*a*) uses that boiler or prime-mover in contravention of the provisions of section 5, or,

(*b*) having a license granted under this Act and in force in respect of any boiler or prime-mover, fails to produce the same when called upon, at any reasonable time to do so, by any Magistrate having jurisdiction in the place in which that boiler or prime-mover is situate, or by any person authorised in writing by that Magistrate to demand the production of the license, and,

every person who prevents an Inspector from entering, under section 13, any place or building,

shall be punished with fine which may extend to five hundred rupees.

Engineer signing false report under section 9.

15. Any engineer signing any report under section 9 which he either knows or believes to be false in any material point shall be deemed to have committed an offence punishable under section 197 of the Indian Penal Code. XLV of 1860.

Charges not to be brought after six months, or without Inspector's sanction.

16. No charge of an offence under this Act shall be brought against any person without the previous sanction of an Inspector, or after the expiration of six months from the date of the commission of the offence.

Power to define limits of towns.

17. The Chief Commissioner may from time to time define what shall be deemed to be, for the purposes of this Act, the local limits of the towns of Rangoon, Maulmain, Akyab and Bassein respectively.[a]

Power to make rules.

18. The Chief Commissioner may, at any time after the passing of this Act, and from time to time, make rules consistent with this Act for all or any of the following purposes (that is to say),—

(*a*) for prescribing the powers and duties of Inspectors;

(*b*) for fixing the fees payable on account of licenses granted under this Act;

(*c*) for determining the time for which such licenses shall be in force;

(*d*) for regulating the procedure on hearing appeals, and conferring on the persons authorised to hear appeals any of the powers conferred on a Civil Court by the Code of Civil Procedure; and,

XIV of 1882.

(*e*) generally for carrying out the purposes of this Act.

All such rules shall be published thrice in the Burma Gazette, and shall come into force on the day on which they are last so published, or on such later day as may be specified in the notification publishing them.

FIRST SCHEDULE.

(*See section 8.*)

FORM OF LICENSE.

1	2	3	4	5	6	7	8	9
Name of owner.	Description of boiler.	Description of prime-mover.	Power.	When and where made.	When and where last repaired.	No. and date of certificate of engineer in charge.	Period for which license is to be in force.	REMARKS.

I, the undersigned, certify that I have examined the boiler (*or* prime-mover) above described, and, to the best of my judgment, it is in good condition, and is not so exposed as to be likely to be dangerous. The engineer in charge is possessed of a certificate [and (*in case alterations or additions have been required*) the alterations (*or* additions) required by me have been properly made].

A. B,
Inspector.

[a] For local limits of the towns of Rangoon, Maulmain, Akyab and Bassein, see Burma Gazettes, 31st March, 1883, Pt. I, p 109, 30th December, 1876, Pt. II, p. 297, 20th March, 1880, Pt. II, p. 66, and 3rd October, 1874, Pt. II, pp. 174 and 173.

SECOND SCHEDULE.

(*See section 9.*)

REPORT OF ENGINEER.

1	2	3	4	5	6	7	8
Name of owner.	Description of boiler.	Description of prime-mover.	Power.	When and where made.	When and where last repaired.	No. and date of certificate of engineer-in charge.	REMARKS.

I, the undersigned, certify that I am in charge of the boiler (*or* prime-mover) above described, that I have examined the same, and, to the best of my judgment, it is in good condition, and is not so exposed as to be likely to be dangerous, and may safely be licensed for the period of

C. D.,
Engineer.

THIRD SCHEDULE.

(*See section 9.*)

FORM OF LICENSE TO BE ENDORSED ON REPORT OF ENGINEER.

I, the undersigned, hereby authorise the use of the boiler (*or* prime-mover) to which this report refers for a period of ending on the day of 188

A. B.,
Inspector.

ACT No. VIII OF 1883.

Received the Governor General's assent on the 19th April, 1883.

An Act to amend the law in force in the Little Cocos Island and Preparis Island.

Preamble.

WHEREAS the Little Cocos Island and Preparis Island have been transferred to the administration of the Chief Commissioner of Lower Burma[a], and attached to the Hanthawaddy District of the Pegu Division of Lower Burma;

[a] Since Upper Burma was placed under the administration of the Chief Commissioner of Lower Burma, this officer is styled Chief Commissioner of Burma—see Proclamation, dated 25th September, 1886, Gazette of India, 25th *idem*, Pt. I, p. 539.

And whereas the Little Cocos Island, when subject to the administration of the Chief Commissioner and Superintendent of the Andaman and Nicobar Islands, formed portion of a scheduled district under the Scheduled Districts Act, 1874, and was subject to the operation of the Andaman and Nicobar Islands Regulation, 1876;

XIV of 1874.
III of 1876.

And whereas it is expedient that the law in force in the Little Cocos Island and in the Preparis Island should be the same as that in the Hanthawaddy District of the Pegu Division of Lower Burma;

It is hereby enacted as follows:—

Short title and commencement.

1. This Act may be called the Little Cocos and Preparis Islands Laws Act, 1883: and it shall come into force on the passing thereof.

Declaration of laws to be in force in Little Cocos and Preparis Islands.

2. All enactments which, on the twenty-ninth day of November, 1882, were in force in the Hanthawaddy District of the Pegu Division of Lower Burma, shall be deemed to have come into force in the Little Cocos and Preparis Islands on that day; and all enactments which, on that day, were in force in those Islands and not in that District, shall be deemed to have been repealed on and from that day in those Islands.

Provision as to pending proceedings.

3. All proceedings commenced before any authority in those Islands before the twenty-ninth day of November, 1882, and still pending, shall be disposed of by such authority as the Chief Commissioner of Lower Burma[a] may direct, and, save as directed in this section, shall be carried on as if this Act had not been passed.

Withdrawal of Little Cocos Island from Andaman and Nicobar Islands Regulation, 1876, and Scheduled Districts Act, 1874.

4. On and from the twenty-ninth day of November, 1882, the Little Cocos Island shall be deemed to have been removed from the operation of the Andaman and Nicobar Islands Regulation, 1876, and to have ceased to be a scheduled district.

III of 1876.

THE LOWER BURMA PILOTS ACT, 1883.

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19. Power to delegate functions of Chief Commissioner.

ACT No. XII OF 1883.

Received the Governor General's assent on the 29th August, 1883.

An Act to provide for the licensing and control of pilots in Lower Burma and for investigating certain charges against them.

Preamble. WHEREAS it is expedient to provide for the licensing and control of pilots in Lower Burma, and for investigating certain charges against them; It is hereby enacted as follows:—

Preliminary.

Short title. 1. (*1*) This Act may be called the Lower Burma Pilots Act, 1883.

Local extent. (*2*) It extends to the territories for the time being administered by the Chief Commissioner of Lower Burma[a]; and

[a] The territories are now known as Lower Burma—see Act XX of 1886, s. 2 (*1*) (*b*), *infra*, p. 364, and the Chief Commissioner is styled Chief Commissioner of Burma—see Proclamation, dated 25th September, 1886, Gazette of India, 25th *idem*, Pt. I, p. 539.

(*3*) It shall come into force on such date as the Chief Commissioner may fix in this behalf. Commencement.

2. In this Act—

"port" means any port, or any part of a navigable river or channel, in which the Indian Ports Act, 1889,[a] is for the time being in force. Definition of "port". X of 1889.

Licensing of Pilots.

3. The Chief Commissioner may from time to time appoint, or cause to be appointed, competent persons for the purpose of examining the qualifications of persons desirous of acting as pilots at any port, and make rules[b]— Licensing of pilots.

(*a*) for the conduct of the examinations and for the qualifications to be required;

(*b*) establishing grades of pilots, and determining the duties which may be undertaken by pilots of each grade;

(*c*) for the grant to qualified persons of licenses to act as pilots of any grade at any port; and,

(*d*) for the fees to be paid for the examinations and licenses.

4. (*1*) A person shall not act as a pilot at any port, after such date as the Chief Commissioner may fix in this behalf for that port, except as permitted by a license granted under section 3. No person to act as pilot except under license.

(*2*) Any person acting as a pilot in contravention of this section shall be punished, for every time he so acts, with fine which may extend to two hundred rupees.

Regulation of Pilots.

5.[b] (*1*) The Chief Commissioner may from time to time, by notification in the Burma Gazette, make rules to regulate the conduct of pilots licensed under this Act in all matters connected with the performance of their duties as such pilots. Power to make rules to regulate conduct of pilots.

(*2*) Any such rule may contain a provision that a pilot committing a breach of the rule shall be punished with imprisonment which may extend to one month, or with fine which may extend to two hundred rupees, or with both:

Provided that a prosecution shall not be instituted in respect of any such breach except by order of such officer as the Chief Commissioner may from time to time appoint in this behalf.

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[a] This Act has been substituted in s. 2 for Act XII of 1875—see Act X of 1889, s. 2 (*3*).

[b] For rules under ss. 3, 5, 8, 10, 11, 16 and 18, see Burma Gazette, 22nd December, 1888, Pt. I, p. 503.

Special Court.

Power to direct investigation by special Court into charges against pilots.

6. (*1*) If the Chief Commissioner has reason to believe that there are grounds for charging any pilot licensed under this Act with incompetency or misconduct in the discharge of his duties as such pilot, or with any act or omission in breach of a rule made under section 5, and that the charge cannot be satisfactorily investigated by an ordinary Court, he may direct that a special Court be constituted, under this Act, at the port at which it will, in his opinion, be most convenient for the parties and witnesses to attend, and shall then send to the Court a statement of the grounds of the charge, and direct the Court to make an investigation into the charge.

(*2*) When the Chief Commissioner directs an investigation under this section, he may, if he thinks fit, appoint a person to act as prosecutor in the investigation.

Constitution of Court.

7. Every Court constituted under section 6 shall consist of a president sitting with three assessors.

Appointment of president.

8.[a] (*1*) The president shall be such person as the Chief Commissioner appoints in this behalf, either generally or for any specified case.

(*2*) Every person so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

Assessors.

9. One of the assessors shall be a master of a seagoing vessel lying in the port at which the investigation is to be made, another shall be a merchant residing at that port, and the third shall be a person who has personally exercised the calling of a pilot for not less than five years.

Appointment of assessors.

10.[a] (*1*) The assessor who is the master of a seagoing vessel shall be appointed in each case by the Chief Commissioner, and shall be summoned by the president.

(*2*) The other assessors shall be summoned by the president in such manner as may be prescribed by rule, out of two lists, one of merchants, the other of pilots, to be, from time to time, prepared for the purpose and published by the Chief Commissioner in the Burma Gazette. If there are no such lists, or if it is impracticable to procure the attendance of two persons, one of whom is named in the list of merchants and the other in the list of pilots, the other assessors or assessor, as the case may be, shall be appointed and summoned by the president.

Fees to be paid to assessors.

11.[a] The assessors shall receive such fees as the Chief Commissioner may from time to time, by rule, prescribe.

[a] For rules under ss 3, 5, 8, 10, 11, 16 and 18, see Burma Gazette, 22nd December, 1888, Pt. I, p. 593.

Copy of grounds of charge to be supplied to pilot.

12. Before any investigation under this Act is commenced the special Court shall supply the pilot with a copy of the statement sent, under section 6, to the Court.

Person charged to be heard.

13. For the purpose of an investigation under this Act the special Court may summon the pilot to appear before it, and shall give him full opportunity of making a defence, either in person or otherwise.

Powers of the Court as to evidence and regulating proceedings.

14. For the purpose of an investigation under this Act the special Court shall, so far as relates to compelling the attendance, and to the examination, of witnesses, the production of documents and the regulation of the proceedings, have the same powers as are exercisable by the principal Court of original criminal jurisdiction for the place at which the investigation is made.

Court to report to Chief Commissioner.

15. On the completion of the investigation, the special Court shall send to the Chief Commissioner a full report of the conclusions at which it has arrived. The report shall be in accordance with the opinion of the majority of the members of the Court, or, if the Court is equally divided, in accordance with the opinion of the president and with the member with whom he concurs. In the latter case, any member who does not concur in the report may separately record his opinion.

Power of Chief Commissioner to make rules.

16.[a] (*1*) The Chief Commissioner may from time to time make rules to carry into effect the provisions of this Act with respect to the special Court and in particular with respect to—

(*a*) the mode in which the president shall, under section 10, summon, the assessors;

(*b*) the amount of the fees to be paid to the assessors; and

(*c*) the procedure of the Court.

(*2*) All such rules shall be published in the Burma Gazette, and shall thereupon have the force of law.

Power to cancel, suspend or reduce Licenses.

Power to cancel, suspend or reduce license for misconduct, &c.

17. The Chief Commissioner may cancel or suspend, or reduce the grade of any license granted to a pilot under this Act in the following cases, that is to say:—

(*a*) if the pilot is found guilty by a Criminal Court of any offence punishable under section 5, or of any other offence the commission of which, in the opinion of the Chief Commissioner, shows him to be unfit to discharge the duties of a pilot; or,

[a] For rules under ss. 3, 5, 8, 10, 11, 16 and 18, see Burma Gazette, 22nd December, 1888, Pt. I, p. 593.

(*b*) if, on considering a report submitted under section 15 of this Act, or transmitted under section 17 of the Indian Merchant Shipping Act, 1883, the Chief Commissioner is of opinion that the pilot is incompetent, or has been guilty of any misconduct in the discharge of his duty as pilot, or of any breach of a rule made under section 5 of this Act. V of 1883.

Power to suspend license pending trial or investigation.

18.[a] When a prosecution has been instituted against a pilot under section 5, or an investigation has been ordered in respect of him under section 6, or an investigation affecting his conduct has been ordered under Chapter II of the Indian Merchant Shipping Act, 1883, the Chief Commissioner may suspend his license until the trial is concluded or the report of the investigation is submitted or transmitted to the Chief Commissioner, as the case may be.

Delegation of Functions of Chief Commissioner.

Power to delegate functions of Chief Commissioner.

19. The Chief Commissioner may from time to time, by notification in the Burma Gazette, delegate his functions under section 6, section 8, section 10, sub-section (*1*), or section 18 to such person as he thinks fit.

THE RANGOON TRAMWAYS ACT, 1883.

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THE SCHEDULE.

ACT No. XXII OF 1883.

Received the Governor General's assent on the 18th December, 1883.

An Act to authorize the making, and to regulate the working, of Street Tramways in Rangoon.

WHEREAS the municipal committee of the town of Rangoon, by an agreement dated the 22nd day of June, 1882, a copy whereof is set forth in

the schedule annexed to this Act, granted, for the considerations therein expressed, to John William Darwood, his heirs, executors, administrators and assigns, hereinafter called the grantee, the right to construct, maintain and use a tramway or tramways in Rangoon upon the terms, subject to the conditions and in the manner mentioned in the said agreement, but the said agreement was made subject to the confirmation thereof by the Chief Commissioner of Lower Burma[a] and to the recognition thereof by an Act of the Governor General in Council;

and whereas the said agreement was, on the 13th day of November, 1882 confirmed by the Chief Commissioner of Lower Burma[a]; and it is now expedient to recognise it and give effect to it, subject to the provisions and limitations hereinafter contained;

It is hereby enacted as follows:—

A.—Preliminary.

Short title. **1.** This Act may be called the Rangoon Tramways Act, 1883; and

Commencement. it shall come into force at once.

Definitions. **2.** In this Act, unless there is something repugnant in the subject or context,—

"committee" means the committee for the town of Rangoon appointed under the Burma Municipal Act, 1884[b]: XVII of 1884.

"tramway" means a tramway, or any part of a tramway, or any siding, turnout, connection, line or track belonging to a tramway:

"street" means the way of any street, road, thoroughfare, passage or place along or across which any tramway authorized by this Act is or is intended to be laid, and includes the surface-soil and subsoil of any such street, and the footway and drains of any such street, and any bridge, culvert or causeway forming part of any such street.

B.—Powers of Grantee generally.

Powers to make, maintain and use tramways. **3.** Subject to the provisions of this Act, and to the terms and conditions of the said agreement so far as the same are not inconsistent with this Act, the grantee may make, maintain and use any of the tramways for the construction, maintenance and use of which provision is made in the said agreement:

Provided that any such tramway shall not be opened for public traffic until

[a] Since Upper Burma was placed under the administration of the Chief Commissioner of Lower Burma, this officer is styled Chief Commissioner of Burma—see Proclamation, dated 25th September, 1886, Gazette of India, 25th *idem*, Pt. I, p. 589.

[b] This Act has been substituted in s. 2 for Act VII of 1874—see Act XI of 1889, s. 100, *infra*, p. 334.

it has been inspected and certified by the engineer to the committee to be fit for such traffic.

C.—Construction and Maintenance of Tramways and of Streets on which they are laid.

Power to grantee to break up streets and lay rails, &c.

4. Subject to the terms and conditions of the said agreement, the grantee may from time to time, for the purpose of constructing, maintaining or renewing any tramway under this Act, open or break up any street, and therein or thereon lay sleepers and rails, and repair, alter or remove the same; and may, for the purposes aforesaid, do in and on any such street all other acts which may from time to time be necessary for constructing, maintaining or renewing the tramway:

Provided that he shall not, without the consent of the committee, open or break up at any one time a greater length than one hundred yards of any street which does not exceed a quarter of a mile in length; and, in the case of any street exceeding a quarter of a mile in length, he shall leave an interval of at least a quarter of a mile between any two places at which he may open or break up the street, and shall not open or break up at any such place a greater length than one hundred yards.

Grantee to keep tramways and adjoining part of street in repair.

5. The grantee shall at his own expense at all times maintain and keep in good condition and repair, in such manner as the committee from time to time direct, all tramways constructed by him under this Act, and so much of any street as lies between the rails of any such tramway; and, in the case of double lines or turnouts or sidings, the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway.

Obligations of grantee when he has broken up street.

6. When the grantee has, for the purposes of section 4 or section 5, opened or broken up any portion of a street, he shall be under the following further obligations, namely:—

(*a*) he shall, with all convenient speed, and in all cases within six weeks at the most, unless the committee otherwise consent in writing, complete the work for which the street has been opened or broken up, fill in the ground and make good the surface, and, to the satisfaction of the committee, restore the street to as good a condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby;

(*b*) he shall, in the meantime, cause the place where the street is opened

(C.—Construction and Maintenance of Tramways and of Streets on which they are laid. Sec. 7. D.—Rights over Tramways and Streets on which they are laid. Sec. 8.)

or broken up to be fenced and watched, and to be properly lighted at night, and

(*c*) he shall make good all damage done to drains, sewers, water-pipes and gas-pipes, and to the wires or other materials or things used for any system of lighting, and whether belonging to the committee, to the Government or to private persons, and shall make compensation for any other damage done in the execution of the powers granted to him.

Reservation of power of committee and Government over streets.

7. (*1*) Nothing in this Act shall prevent the committee or any Government officers from opening, breaking up, widening, altering, diverting or improving any street traversed by a tramway for the purposes for which they might otherwise under the law for the time being in force lawfully open, break up, widen, alter, divert or improve such street:

Provided that—

(*a*) they shall cause as little detriment or inconvenience to the grantee as circumstances admit; and,

(*b*) before they commence any work whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the grantee not less than eighteen hours' previous notice of their intention to commence the work, specifying the time at which they will commence it.

(*2*) The committee or officers aforesaid or the Secretary of State for India in Council shall not be liable to pay to the grantee any compensation for injury done to the tramway by the execution of any work referred to in sub-section (*1*), or for loss of traffic occasioned by the reasonable use of any power lawfully exercised in connection with the same.

D.—Rights over Tramways and Streets on which they are laid.

Grantee's exclusive right over tramways.

8. The grantee shall, subject to the provisions of this Act and to the terms and conditions of the said agreement, have the exclusive use of his tramways for carriages with flange wheels or other wheels suitable only to run on a grooved rail:

Provided that nothing in this Act shall affect—

(*a*) the right of the public to pass along or across anyp art of any road along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange wheels or wheels suitable to run on a grooved rail, or

(*b*) the right of the commissioners for the port of Rangoon, or of any other body or person entitled at the time of the commencement of this Act to work and maintain a tramway, to pass across any tramway constructed under this Act with carriages having flange wheels or wheels suitable to run on a grooved rail.

Grantee to have right of user only.

9. Notwithstanding anything in this Act or in the said agreement, the grantee shall not acquire any right other than that of user over any street along or across which he lays any tramway.

Power of committee and Government officers to regulate traffic on streets.

10. Nothing in this Act shall affect the powers of the committee or of any Government officers to regulate the passage of any traffic along or across any street along or across which any tramway is laid down, and the committee or officers aforesaid may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the grantee as to the traffic of other persons.

E.—Traffic on Tramways.

Rates of fares and charges.

11. The grantee may from time to time, by a notice published in such languages and in such manner as the Chief Commissioner may prescribe, fix the rates of fares and charges for carrying passengers and goods in his carriages:

Provided that the rates of passenger fares shall not exceed one anna per mile for each passenger in the lower class and two annas per mile for each passenger in the higher or first class.

Mode of payment of fares and charges.

12. The fares and charges by this Act authorized shall be paid to such persons, at such places upon or near to the tramways, and in such manner and under such regulations as the grantee may, by a notice published as aforesaid, from time to time prescribe.

Carriage of dangerous or offensive goods.

13. (*1*) No person shall be entitled to carry or to require to be carried on any tramway constructed under this Act any goods of a dangerous or offensive nature.

(*2*) Every person taking such goods with him on any such tramway shall, before entering the carriage, give notice of their nature to the servant of the grantee in charge of the carriage.

(*3*) Every person sending such goods by any such tramway shall distinctly mark their nature on the outside of the package containing them, or otherwise give notice thereof in writing to the book-keeper or other servant of the grantee with whom they are left at the time of such sending.

(*4*) The grantee may refuse to take any parcel which he may suspect to contain goods of a dangerous or offensive nature, or require it to be opened to ascertain the fact.

F.—Offences and Penalties.

Penalty for failure of grantee to comply with certain provisions of Act and agreement.

14. If the grantee—

(*a*) constructs or maintains any tramway, or runs any car or carriage thereon, otherwise than in accordance with the said agreement;

(*b*) opens any tramway for traffic before it has been inspected and certified in manner required by section 3;

(*c*) opens or breaks up any street otherwise than as permitted by this Act, or having opened or broken up a street fails to discharge any of the obligations imposed on him by section 6, clauses (*a*) and (*b*); or,

(*d*) fails to keep the rails of any tramway and the portions of the street adjoining the same in repair as required by section 5,

he shall (without prejudice to the enforcement of specific performance of the requirements of this Act or of the said agreement or to any other remedy against him), on complaint of the committee or of any person injuriously affected thereby, be punished with fine which may extend to two hundred rupees, and in the case of a continuing offence to a further fine which may extend to fifty rupees for each day after the first day during which the offence continues to be committed.

Penalty for obstructing grantee in the exercise of his powers.

15. Any person who without lawful excuse (the proof whereof shall lie on him) wilfully obstructs any person acting under the authority of the grantee in the lawful exercise of his powers in constructing, repairing or renewing a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, shall be punished with fine which may extend to fifty rupees.

Penalty for interfering with tramway.

16. Any person who without lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things, namely:—

(*a*) interferes with, removes or alters any part of a tramway constructed under this Act, or of the works connected therewith;

(*b*) does anything in such a manner as to obstruct any carriage using any such tramway; or

(*c*) abets within the meaning of the Indian Penal Code the doing of anything mentioned in clause (*a*) or clause (*b*), XLV of 1860.

shall be punished with fine which may extend to one hundred rupees.

Penalty for taking or

17. Any person taking or sending by any tramway any goods of a danger-

ous or offensive nature without giving the notice required by section 13 shall be punished with fine which may extend to fifty rupees.

sending dangerous or offensive goods without giving notice.

18. If any person travelling or having travelled in any carriage of the grantee avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance wilfully proceeds in any such carriage beyond that distance and does not pay the additional fare for the additional distance or attempts to avoid payment thereof, or if any person wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit the carriage, he shall be punished with fine which may extend to ten rupees.

Penalty for avoiding payment of proper fare.

19. Any servant of the grantee, and any person called in by him for his assistance, may arrest and take to the nearest police-station any person who is discovered either in or after committing or attempting to commit an offence punishable under section 18 and whose name and residence are refused by him and are unknown to such servant or person; and the police-officer in charge of the police-station, on receiving a complaint that such an offence has been committed, shall adopt such legal measures as may be necessary to cause the accused person to be taken before a Magistrate with the least possible delay.

Power of servant of grantee to arrest persons avoiding payment of fare.

G.—Powers to make Rules.

20. (*1*) The committee in special meeting may, with the sanction of the Chief Commissioner, from time to time, make such rules consistent with this Act as to the rate of speed, number of passengers and mode of use of the tramways, and as to the licensing and control of drivers, conductors and other persons having charge of the carriages of the grantee, as the convenience and safety of the public may, in the opinion of the committee, require.

Powers to make rules.

(*2*) The grantee may, with the like sanction, from to time, make rules consistent with this Act for preventing the commission of any nuisance in or upon any carriage, or in or against any premises belonging to him, and

for regulating the travelling in any carriage belonging to him.

(*3*) The authority making any rule under this section may prescribe as a punishment for the breach of it a fine which may extend to twenty rupees.

(*4*) All rules made under this section shall be published in the Burma Gazette.

H.—Miscellaneous.

21. For the purpose of clause 15 of the agreement set forth in the schedule

Construction

of clause 15 of agreement.

annexed to this Act, the want of sufficient funds shall not be deemed to be a circumstance beyond the control of the grantee.

Exemption from certain municipal taxation.

[a]22. The plant, rolling-stock and other vehicles, yards, workshops, engine-sheds and depôts of the grantee shall, for a period of five years from the passing of this Act, be exempt from all municipal taxation except such lighting and water rates as may from time to time be payable in respect of the yards, workshops, engine-sheds and depôts.

Provisions as to general Acts.

23. Nothing in this Act shall exempt the grantee or any tramway constructed by him under this Act from the provisions of any general enactment[a] relating to tramways now in force or which may hereafter be passed.

And whereas the agreement set forth in the schedule annexed to this Act was executed by the parties thereto under a belief that all the streets specified in the first article thereof as streets along which the construction of tramways was authorized were situate within the municipality of Rangoon, and it now appears that some portion of those streets is not so situate; It is hereby enacted as follows:—

Certain streets to be deemed within the municipality.

24. All streets specified in the first article of the said agreement as streets along which the construction of tramways is authorized shall, for the purposes of the agreement and of this Act, be deemed to be, and to have been, on and from the date of the agreement, situate within the limits of the municipality of Rangoon.

THE SCHEDULE.

ARTICLES OF AGREEMENT made this 22nd day of June, 1882, BETWEEN THE MUNICIPAL COMMITTEE OF THE CITY OF RANGOON appointed under the British Burma Municipal Act, 1874, hereinafter called the said committee, of the one part, and JOHN WILLIAM DARWOOD, of Rangoon, hereinafter called the said grantee, of the other part. WHEREAS the said committee have, subject to the confirmation thereof by the Chief Commissioner of British Burma and to the recognition of this agreement by an Act of the Governor General of India in Council, agreed to grant to the said grantee the right to construct, maintain and use a tramway or tramways in Rangoon upon the terms and conditions hereinafter contained, NOW THESE PRESENTS WITNESS that, in consideration of the covenants and agreements hereinafter contained, and on the part of the said committee to be performed, the said grantee for himself, his heirs, executors, VII of 1874.

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[a] See the Indian Tramways Act, XI of 1886.

administrators and assigns doth covenant with the said committee, so far as the covenants and conditions hereinafter contained are to be performed by the said grantee and his heirs, executors, administrators and assigns, and the said committee, for and in consideration of the covenants and agreements hereinafter contained and on the part of the said grantee, his heirs, executors, administrators and assigns to be performed, do hereby covenant with the said grantee, his heirs, executors, administrators and assigns so far as the covenants and agreements hereinafter contained are to be performed by the said committee in manner following, that is to say :—

1. The said committee grant to the said grantee and his heirs, executors, administrators and assigns, all which persons are hereinafter included in the words "the said grantee," the right to construct, maintain and use a tramway or tramways, with single or double tracks or lines, and with all necessary sidings, turnouts, connections and lines, or tracks of whatever nature which may be required to connect the said tramway or tramways with the depôts of the said grantee (but in the case of sidings and turnouts, only in such places as the said committee may sanction), on the following routes and between such other places and by such other routes as may be hereafter approved of by the said committee :—

The tramways referred to and now authorized for construction, subject to such confirmation as aforesaid, are :—

(i) A tramway with a double track or line along China Street and Pagoda Road from the Strand Road at its junction with China Street to the Shway Dagone Pagoda.

(ii) A tramway with a double track or line along the Strand Road from East Street to West Street.

(iii) A tramway with a double track or line along Dalhousie Street from East Street to the junction of Dalhousie Street with the Strand Road.

(iv) A tramway with a double track or line along Soolay Pagoda Road from the Strand Road to Montgomery Street and along Montgomery Street to the Phayre Street Railway Station and along Montgomery Road to the iron bridge near the Bázár at Poozoondoung.

(v) A tramway with a double track or line from the Strand Road down Barr Street to Shafraz Road round the Public Buildings back into the Strand Road.

2. When approved of and desired by the said committee, tramways with such tracks or lines as may be approved of by the said committee from East

Street to Monkey Point and along the Upper and Lower Poozoondoung Roads to Monkey Point, and along Merchant Street, Fraser Street and Canal Street, and along Lower Kemmendine Road from the Strand Road, Kemmendine, to the junction of West Street with the Strand Road.

3. The said tramway or tramways to be constructed and maintained in such form and manner and upon such gradient and with such gauge as the said committee may approve, and the cars and carriages intended to run on the said rails shall be such as are approved of by the said committee.

4. The cars and carriages of the grantee on the tracks or lines of the said tramway shall, unless with the consent of the said committee, be worked with steam power of the most approved engine of the time only, and the said committee shall have power at all times to make such regulations as to the rate of speed and mode and use of the said tracks or lines as the convenience and safety of the public using the streets may require.

5. The said grantee shall have power from time to time to fix the rate of fares for carrying persons and goods in the cars or carriages to be run on the said tramway or tramways: Provided that the rates of fares shall for any distance not exceed the rate of one anna per mile for the lower class and two annas per mile for the higher or first class for each passenger.

6. The said grantee may, for the purpose of constructing and maintaining such tramways under such superintendence as is hereinafter specified, open and break up the soil and metalled way of the several streets, roads and bridges in the city and thereon lay sleepers and rails, and from time to time repair, alter or remove the same, and may, for the purposes aforesaid, remove and use all earth and materials in such streets, roads and bridges, and the said grantee may, in and on such streets, roads and bridges, do all other acts which he shall from to time deem necessary for constructing and maintaining street tramways in the said city, doing as little damage as may be in the execution of the powers hereby granted, and shall make good all damage done to drains, sewers, water and gas pipes, or to the wires or other materials or things used for any other system of lighting, and whether belonging to the said municipality or to private individuals, and shall make compensation for any other damage done in the execution of such powers.

7. Before the said grantee proceeds to open or break up any street, road or bridge other than those referred to in sub-clauses from (i) to (v) in clause 1, he shall obtain the approval in writing of the said Committee to the tracks of lines of the said tramway being laid down on the said street, roads or bridges, and the said grantee, before opening or breaking up any street, road or bridge, shall give to the said committee or their executive engineer, or other muni-

cipal officer duly appointed for that purpose, notice in writing of his intention to open or break up the same not less than three clear days before beginning such work, except in such cases of emergency arising from defects in any of the rails or other works, and then so soon as is possible after the beginning of the work or the necessity for the same shall have arisen.

8. No street, road or bridge shall, except in cases of emergency as aforesaid, be opened or broken up, except under the superintendence of the said committee or of their executive engineer, or of some other municipal officer duly appointed for that purpose, and according to such plans as shall be approved of by him or them: Provided always that, if the said committee or their engineer or other such officer as aforesaid fail to attend at the time fixed for the opening of any such street, road or bridge after having had such notice of the said grantee's intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the said grantee may perform the work specified in such notice without such superintendence as aforesaid.

9. When the said grantee opens or breaks up the roadway or pavement of any street, road or bridge, he shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground and make good the roadway or pavement so opened or broken up as aforesaid, and carry away the rubbish occasioned thereby and deposit the same for the use of the said committee at such place as the executive engineer of the said municipality shall direct, and shall at all times, whilst any such roadway or pavement shall be so opened or broken up, cause the same to be guarded, and shall cause a light sufficient for the warning of passengers to be set up and maintained against or near such roadway or pavement where the same shall be open or broken up every night during which the same shall continue open or broken up.

10. If the said grantee opens or breaks up any street, road or bridge without giving such notice as hereinbefore mentioned, or in a manner different from that which shall have been approved of or determined as aforesaid, except in the cases in which the said grantee is hereby authorized to perform such work without any superintendence or notice, or if the said grantee shall make any unnecessary delay in completing any such work or in filling in the ground or reinstating and making good, so far as is consistent with the existence of the said tramway, the roadway or pavement so opened or broken up, or in carrying away the rubbish occasioned thereby, or if he neglect to cause the place where such roadway or pavement has been broken up to be guarded and lighted, he shall forfeit to the said committee a sum not exceeding fifty (50) rupees for every such offence, and he shall forfeit an additional sum not exceeding fifty

(50) rupees for each day during which any such delay or neglect as aforesaid shall continue after he shall have received notice thereof.

11. The said grantee shall maintain and keep in repair such portion of the streets, roads and bridges in the city of Rangoon as shall be occupied by his tracks or lines, including therein, not only the space between his tracks or lines, but a space eighteen inches on either side thereof, and in consideration of the maintenance of such streets, roads and bridges as aforesaid, and of the yearly rent hereinafter mentioned to be paid by the grantee, the plant, rolling-stock and other vehicles, yards, workshops, engine-sheds and depôts of the said grantee shall be exempt from municipal taxation for a period of five years, except lighting and water rates for such yards, workshops, engine-sheds and depôts.

12. The said grantee shall be liable for any loss, damage or injuries that any person or persons may sustain by reason of any defect or want of repairs in any of the plant, rolling-stock or other properties of the said grantee, or by reason of any carelessness, neglect or misconduct of his agents or servants in the management, construction or use of the said tramways or any portion thereof, or in the exercise of the power given by clauses 6, 7, 8 and 11; the same shall be made good by the said grantee, and in the event of any suit being instituted against the said committee in respect of any of the matters hereinbefore mentioned, the said grantee shall, within fourteen days from the receipt of a notice thereof from the said committee, settle the same; but if the said grantee choose to defend such suit he shall be at liberty to do so upon his undertaking to indemnify the said committee against all losses, damages and expenses in respect thereof: Provided always that, if the said grantee fail to settle such suit or to indemnify the said committee as is hereinbefore provided, it shall be lawful for the said committee to settle the same without any consent or concurrence on the part of the said grantee, and the sums which they shall have to pay in making such settlement, together with interest thereon at the rate of 8 per cent. per annum from the date of payment, and with all expenses which they may be put to, shall be recoverable as a debt from the said grantee.

13. Nothing in this agreement shall be construed to prevent the said committee from taking up any of the public streets or roads traversed by the said tramway for the purposes for which the said committee may lawfully take up the same, and the said grantee shall have no right to claim cost from the said committee for obstructing the tramway or causing delay in the traffic so long as the delay shall not be unreasonable for the work to be performed.

14. If the said committee shall hereafter alter the level of any street, road

or bridge along or across which any tramway by this agreement authorized is laid or authorized to be laid, the grantee shall alter or (as the case may be) lay his rails to suit the altered level of such street, road or bridge: Provided always that any such alteration as aforesaid shall be so made as to interfere as little as possible with the safe and convenient working of the said tramways and in any case so as not to stop or prevent the free use or working thereof.

15. If at any time after the opening of any tramway for traffic the said grantee shall discontinue the working of such tramway or any part thereof for the space of six calendar months (such discontinuance not being occasioned by circumstances beyond the control of the said grantee), it shall be lawful for the said committee, without any previous notice to the said grantee, to remove the tramway or part of the tramway so discontinued, and the said grantee shall pay to the said committee the cost of such removal and of the making good of the street, road or bridge, and the certificate of the said committee or of their engineer as to such cost shall be conclusive.

16. The provisions of this agreement shall remain and be in force for a term not less than twenty-one (21) years from the date thereof. The said committee shall have the right of purchasing the said tramways, with the plant, stores, rolling-stock, sheds, depôts and yards, and everything connected therewith, after the expiration of the said twenty-one (21) years upon declaring its intention so to do within six months after the expiration of the said twenty-one (21) years; the amount to be paid in the event of such purchase shall be the actual *bonâ fide* value at the termination of this agreement, exclusive of any compensation for goodwill, premium on compulsory sale or other consideration whatever, of the tramways and of the work and materials connected therewith, and of the lands and buildings and all the other property of the grantee, such value to be decided by mutual agreement or by arbitration as hereinafter provided.

17. The provisions hereinbefore contained shall, so far as applicable, apply to all tramways to be constructed by the said grantee by any route or routes to be hereafter sanctioned by the said committee, and to the works connected with, or incidental to, such tramways, it being agreed that, in the event of the municipality failing to declare its intention as above provided to purchase the property of the said grantee, the terms of this contract shall continue in force during the period of six months from the date of the determination of these presents and for a further period of six months, and if the said committee shall not within that time exercise the option of purchase hereby given, the said committee and the said grantee shall enter into a fresh agreement.

18. The said grantee will, if required by the said committee, before opening

up the roadway of any street, road or bridge, deposit with the Bank of Bengal in the name of the said committee the sum of rupees five thousand (5,000) or, in their option, promissory notes of the Government of India of the nominal value of rupees five thousand (5,000), and the same will remain so deposited until the completion by the said grantee of the abovementioned lines of tramway herein sanctioned for construction. All interest accruing on the said sum, or the said notes, shall be credited to the said grantee, and, subject as next hereinafter mentioned, be paid to him as the same accrues due. The said committee shall be entitled to deduct all fines recoverable by the said committee and all moneys to which they may be entitled under any clause or clauses of these presents out of the sum so deposited, or the interest accruing on the said sum or notes, or out of the proceeds of sale of a portion of the said notes on completion of the tramways herein sanctioned for immediate construction.

19. In consideration of the concession herein granted, the said grantee undertakes on behalf of himself, his heirs, executors, administrators and assigns that he will pay to the said committee a yearly rent of rupees three thousand (3,000) per mile of double track or line and rupees two thousand (2,000) per mile of single track or line, payable half-yearly; the date on which such rent on each line of tramway shall begin to accrue shall be the date on which such line of tramways is open for public traffic.

20. It is agreed that the tramway or tramways from the Strand Road along Barr Street and Shafraz Road round the Public Buildings and back to the Strand Road should not be included, and that no sidings, turnouts or tracks necessary to connect the traffic lines with the carriage-sheds, engine-sheds, factories, depôts, yards or other property or properties of the said grantee shall be included in the mileage on which rent is to be paid, the tramway or tramways more particularly described in this paragraph, and such sidings, turnouts and necessary connecting tracks or lines being free of rent.

21. The sleepers, rails, materials and implements and other erections placed and erected by the said grantee on the streets, bridges or roads under the powers hereby granted shall be and remain the property of the said grantee, and the said grantee shall have the exclusive use of his tramway or tramways for carriages with flanged wheels or other wheels suitable only to run on the prescribed rail.

22. The prescribed rail is that known as the box-rail introduced by Mr. Robinson Souttar, to be made of Bessemer steel of the weight of sixty pounds to the yard, or such other rail of such weight as may be approved by the said committee.

23. The said grantee shall have the exclusive right of laying and using

tramways within the limit of the Rangoon municipality on the terms herein stated; but in the event of the said grantee refusing to lay down any line when the said committee may consider it necessary, the said committee shall be at liberty to grant the right of laying and using such line to any other party.

24. Unless the said grantee shall have commenced the work of laying down the said tramways within twelve months from the date of the execution of these articles of agreement, the said committee shall be at liberty to cease and determine this contract and to enter into arrangements with any other person or persons for the construction of tramways; it being agreed, however, that these conditions of contract are subject to the sanction of Government, and that, in the event of their being executed prior to such sanction being given, the said twelve months shall date from the day on which notice of such sanction is given to the said grantee: provided also that any delay in commencing the work beyond twelve months shall not have been due to any cause beyond the control of the said grantee.

25. If any doubt, difference or dispute shall arise between the said grantee and the said committee touching the construction of these presents or anything herein contained, or touching or concerning any other matter or thing relating to these presents, then and in every such case such doubt, difference or dispute shall be referred to the arbitration of two persons, one to be chosen by the said grantee and the other by the said committee within one calendar month after either of them shall have made to the other a requisition to that effect, and should the arbitrators fail to agree they shall refer the question or questions at issue to the decision of an umpire to be chosen by the said arbitrators, and the decision of such arbitrators if they agree, or of such umpire if they disagree, shall be final; and in case either party shall neglect or refuse to appoint an arbitrator within the specified time, the arbitrator appointed by the other party shall make a decision alone, and the decision of such arbitrators, umpire or arbitrator, as the case may be, shall be effectual and binding upon both parties.

26. The said grantee is to be at liberty to form a company or limited liability company for the purpose of constructing, maintaining and working the tramways authorized by or hereafter to be authorized under the terms of this agreement. The words "the said grantee" used in this agreement shall include such company or limited liability company so formed as aforesaid.

27. The words "the said committee" used in this agreement shall include the present committee and their successors, and also persons empowered by the said committee or their successors or by other duly constituted authority

to do any act or thing or exercise any powers or authorities which the said committee are hereinbefore authorized or empowered to do or exercise.

THE BURMA MUNICIPAL ACT, 1884.

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ACT No XVII OF 1884

Received the Governor General's assent on the 3rd October, 1884

An Act to amend the law relating to Municipalities in Lower Burma.

WHEREAS it is expedient to amend the law relating to municipalities in Lower Burma, It is hereby enacted as follows —

CHAPTER I.

PRELIMINARY

Short title, local extent and commencement.

1. (*1*) This Act may be called the Lower Burma Municipal Act, 1884.

(*2*) It extends to the territories[a] for a the time being under the administration of the Chief Commissioner of Lower Burma[a], and

(*3*) It shall come into force on such date as the Local Government may, by notification in the official Gazette, appoint in this behalf[b]

2 In this Act, unless there is something repugnant in the subject or context,—

"municipality" means a local area declared under Chapter II to be a municipality·

"owner"[c] includes the person who is receiving the rent of any building or land, whether on his own account or as agent or trustee, or who would so receive the rent if the building or land were let to a tenant, but except in sections 74 and 75 does not include the Government

"inhabitant" includes any person ordinarily residing or carrying on business, or owning or occupying immoveable property, in any local area which is declared to be a municipality under this Act or which the Local Government has by notification proposed to declare a municipality under this Act, and

"street" means any street, road, thoroughfare, passage or place over

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[a] These territories are now known as Lower Burma—see Act XX of 1886, s 2 (*1*) (*b*), *infra*, p 364, and the Chief Commissioner is styled Chief Commissioner of Burma—see Proclamation, dated 25th September, 1886, Gazette of India, 25th *idem*, Pt I p 539

[b] The Act came into force on the 1st December, 1884—see Burma Gazette, 1st November 1884, Pt I, p 266

[c] The definition of "owner" has been inserted by Act XIX of 1888 s 1—see *infra* p 291

which the public have a right of way; and includes the surface-soil and sub-soil of any such street, and the footway and drains of any such street, and any bridge, culvert or causeway forming part of any such street.

CHAPTER II.

Constitution of Municipalities.

Proposal to create municipality.

3. (*1*) The Local Government may, by notification published in the official Gazette and in such other manner as the Local Government may determine, propose to declare any town, or any group of towns in the immediate neighbourhood of one another, a municipality under this Act.

(*2*) Every notification under this section shall define the limits of the town or group of towns to which it refers, and may include within those limits any railway-station, village, building or land in the vicinity of any such town:

Provided that it shall not, without the previous consent of the Governor General in Council, so include any part of a military cantonment.

Creation of municipality.

4. (*1*) Any inhabitant of a local area in respect of which a notification has been published under section 3 may, if he objects to anything therein contained, submit his objection in writing to the Local Government within six weeks from the publication of the notification in the Gazette, and the Local Government shall take his objection into consideration.

(*2*) When six weeks from the publication of the notification in the Gazette have expired and the Local Government has considered the objections (if any) which have been submitted under sub-section (*1*), the Local Government may, by a notification in the official Gazette, declare the local area to be a municipality under this Act.[a]

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[a] Under s. 4 (*2*) the following local areas have been declared municipalities under this Act:—

The Town of Sandoway—see Burma Gazette, dated			6th June, 1885, Pt. I, p. 197.
Ditto	Kyaukpyu	ditto,	5th September, 1885, Pt. I, p. 295.
Ditto	Zalun	ditto,	3rd October, 1885, Pt. I, p. 319.
Ditto	Myaungmya	ditto,	5th December, 1885, Pt. I, p. 403.
Ditto	Myanaung	ditto,	15th May, 1886, Pt. I, p. 204.
Ditto	Kyangin	ditto,	17th July, 1886, Pt. I, p. 254.
Ditto	Ramree	ditto,	8th January, 1887, Pt. I, p. 14.
Ditto	Mergui	ditto,	26th March, 1887, Pt. I, p. 135.
Ditto	Tavoy	ditto,	11th June, 1887, Pt. I, p. 233.
Ditto	Ngathainggyaung and Daungyi	ditto,	27th August, 1887, Pt. I, p. 349.
Ditto	Thyetmyo	ditto,	8th October, 1887, Pt. I, p. 395.
Ditto	Thatôn	ditto,	19th November, 1887, Pt. I, p. 450.
Ditto	Shwegyin	ditto,	28th April, 1888, Pt. I, p. 173.
Ditto	Ma-ubin	ditto,	6th October, 1888, Pt. I, p. 459.
Ditto	Kyaikto	ditto,	26th January, 1889, Pt. I, p. 46.

Application of Act to existing municipalities.

5. (*1*)[a] The Local Government may, by notification in the official Gazette, declare any local area which is a municipality established under the Lower Burma Municipal Act, 1874, to be a municipality under this Act, and shall, VII of 1874. within three months from the date on which this Act comes into force, so declare every such local area, unless, before the expiration of that period,—

(*a*) that local area is comprised in some local area declared to be a municipality under section 4; or,

(*b*) the Local Government has declared, by a notification in the official Gazette, that the provisions of this Act are unsuited to that local area.

(*2*) The Local Government may, by the notification issued under this section in respect of any local area, direct that the members and the president and vice-president of the committee for that local area appointed *ex officio*, by nomination and by election under the said Lower Burma Municipal Act, 1874, and then in office, shall, on and from a day fixed by the notification, be deemed respectively to have been appointed by virtue of an office and by name and elected under this Act as members, president and vice-president of a municipal committee for the local area, and shall hold office as such members, president and vice-president for such term as may be fixed by the notification.

CHAPTER III.

Organization of Municipal Committees.

Constitution of Committees.

Committee to consist of elected and appointed members.

6. There shall be established for each municipality a municipal committee having authority over that municipality, and consisting of—

(*a*) so many inhabitants of the municipality as may be determined by the Local Government elected in manner next hereinafter prescribed to represent wards of the municipality or particular classes of the inhabitants; and,

(*b*) such person or persons (if any), not exceeding in number one-fourth of the committee, as the Local Government may appoint by name or by virtue of an office in this behalf:

Provided that—

(*1*) when the circumstances of the municipality are, in the opinion of the Local Government, such as to require it, the Local Government may

---

[a] Under s. 5 (*1*) the following local areas, which were municipalities under Act VII of 1874, have been declared to be municipalities under this Act, namely:—

the municipalities of Rangoon, Maulmain, Akyab, Bassein, Henzada, Prome, Tounghoo, Pegu, Yandoon and Puungdé—see Burma Gazette, 3rd January, 1885, Pt. I, p. 2.

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appoint a larger proportion of, or all, the members of the committee; and,

(*2*) when any places on a committee are required to be filled by election and a sufficient number of members is not elected, the Local Government may fill those places by appointment.

Power to Local Government to make rules regarding election.

7. (*1*) The Local Government shall, for every municipality in which a system of election is introduced, make rules regulating the following matters, namely:—

(*a*) the division of the municipality into wards, or of the inhabitants into classes, or both;

(*b*) the number of representatives proper for each ward or class;

(*c*) the qualifications of electors and of candidates for election;

(*d*) the registration of electors;

(*e*) the nomination of candidates, the time of election and the mode of recording votes; and

(*f*) any other matters relating to the system of representation and of election for which it may seem expedient to provide.

(*2*) The Local Government may, after the municipal committee has come into existence as hereinafter provided, amend, after consulting the committee, the rules made under this section; but any amendment made under this sub-section shall not take effect until six months after it has been published in the official Gazette.

(*3*) Elective members of the committee shall be elected in accordance with the rules made under this section and for the time being in force.

Term of office of members.

8. (*1*) A member of a municipal committee, when appointed by virtue of an office, shall, unless and until the Local Government otherwise directs, continue to be a member of the committee while he continues to hold that office.

(*2*) The term of office of all other elected and appointed members of a committee shall be fixed by the Local Government by rules made under this Act, and may be so fixed as to provide for the retirement of members by rotation, but shall not exceed three years.

(*3*) An outgoing member may, if otherwise qualified, be again elected or appointed.

Resignation of member of committee.

9. A member of a municipal committee may resign by notifying in writing to the Local Government his intention to do so, and, on his resignation being accepted by the Local Government, he shall be deemed to have vacated his office.

Removal of member.

10. (*1*) The Local Government may remove any member of a municipal

committee who ceases to be an inhabitant of the municipality, or refuses to act, or becomes in the opinion of the Local Government incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Local Government, a defect of character which unfits him to be a member, or, who, without sufficient excuse, neglects for more than three consecutive months to be present at the meetings of the committee.

(*2*) A person removed under this section on any ground except that first mentioned shall be disqualified for election until the Local Government otherwise directs.

Filling of casual vacancies.

11. (*1*) When the place of an elected member of a municipal committee becomes vacant by the resignation or removal of the member, or by his death, a new member shall be elected in manner prescribed under section 7 to fill the place.

(*2*) When the place of a member of a municipal committee appointed by name becomes vacant as aforesaid, the Local Government may, if it thinks fit, appoint a new member to fill the place.

(*3*) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but may be again elected or appointed.

Incorporation of municipal committee.

12. Every municipal committee shall be a body corporate by the name of the municipal committee of its municipality, shall have perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire and hold property, both moveable and immoveable, and to transfer any property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name:

Provided that a committee shall not transfer any immoveable property except in pursuance of a resolution passsd at a special meeting and approved by the Local Government.

Time for committees coming into existence.

13. A municipal committee shall come into existence at such time as the Local Government may, by notification in the official Gazette, appoint in this behalf:

Provided that a committee constituted under section 5, sub-section (*2*), shall come into existence on the day fixed under that sub-section.

Consequences of establishment of municipal

14. When a municipal committee comes into existence under section 13 for a municipality constituted under this Act, and that municipality is, or comprises within its limits, a local area which is a municipality under the

VII of 1874. Lower Burma Municipal Act, 1874, the following consequences shall ensue, namely:—

committee where municipal committee under Act VII of 1874 exists.

(*a*) the said Act shall cease to apply to the local area[a];

(*b*) the municipal committee (if any) constituted under that Act for the local area (hereinafter called the old committee) shall cease to exist;

(*c*) all property vested in the old committee shall, for the purposes of this Act, vest in the committee constituted under this Act, hereinafter called the new committee, subject to all rights (if any) existing over, and all debts, liabilities and obligations (if any) affecting, that property;

(*d*) every right and liability belonging to or incurred by the old committee may be enforced by and against the new committee in like manner as it might have been enforced by and against the old committee if this Act had not been passed;

(*e*) a Government officer employed by the old committee at the time when the new committee comes into existence shall be deemed to be similarly employed by the new committee and shall not be dismissed from that employment without the sanction of the Local Government; and,

(*f*) the new committee shall be substituted for the old committee in all legal proceedings by or against the old committee pending at the time when the new committee comes into existence.

Member of municipal committee to be municipal commissioner.

15. Every member of a municipal committee constituted under this Act shall be deemed to be a municipal commissioner within the meaning of every enactment for the time being in force.

President and Vice-president.

Election of president and vice-president.

16. A municipal committee shall from time to time, at a special meeting, elect one of its members to be president, and may from time to time, at a like meeting, elect another of its members to be vice-president:

Provided that in such municipalities, if any, as the Local Government may, by notification in the official Gazette, exempt from the operation of this section, the president shall, until the notification is rescinded by a like notification, be appointed by the Local Government from among the members of the committee.

[a] This Act having been extended to the local areas to which Act VII of 1874 applied (see footnote on p. 234, *supra*), the latter Act, became inoperative under s. 14 (*a*), and has now been repealed—see Act XI of 1889, Sch. I, *infra*, p. 335.

Term of office of president and vice-president.

17. (*1*) The term of office of a president or vice-president shall be one year, and on the expiration of that period he may be again elected or appointed.

(*2*) Nothing in this section shall affect section 5, sub-section (*2*).

Casual vacancies in office of president or vice-president.

18. (*1*) If a president elected by a municipal committee or a vice-president dies, ceases to be a member of the committee or resigns his office, the committee shall, at a special meeting, elect another of its members to be president or vice president.

(*2*) If a president appointed by the Local Government dies, ceases to be a member of the committee or resigns his office, the Local Government shall appoint another president.

(*3*) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but may, if otherwise qualified, be again elected or appointed.

Notification of Elections, Appointments and Removals.

Notification of appointments, &c.

19. All elections and appointments of presidents and vice-presidents, and all elections, appointments and removals of members, of municipal committees, shall be notified in the local official Gazette, and no such election or appointment shall take effect until it is so notified.

Conduct of Business

Time for holding meetings.

20. (*1*) A municipal committee shall meet for the transaction of business at least once in every month, at such time as may, from time to time, be fixed by the rules made under section 27.

(*2*) The president, or, in his absence, the vice-president, may, whenever he thinks fit, and shall, on a requisition made in writing by not less than one-fifth or two of the members of the committee, convene an ordinary or a special meeting at any other time.

Ordinary and special meetings.

21. (*1*) A meeting of a municipal committee shall be either ordinary or special.

(*2*) Any business may be transacted at an ordinary meeting unless it is required by this Act or the rules made under this Act to be transacted at a special meeting.

Quorum.

22. (*1*) The quorum necessary for the transaction of business at a special meeting of a municipal committee shall be one-half of the whole committee:

Provided that, when the committee consists of less than six members, the quorum shall be three.

(*2*) The quorum necessary for the transaction of business at an ordinary

meeting of a municipal committee shall be such number, not less than three, as may from time to time be fixed by the rules made under section 27:

Provided that, if at any ordinary or special meeting of the committee a quorum is not present, the chairman shall adjourn the meeting to such other day as he thinks fit, and the business which would have been brought before the original meeting if there had been a quorum present shall be brought before and transacted by the adjourned meeting whether there is a quorum present thereat or not.

Chairman of meeting.

23. (*1*) At every meeting of a municipal committee the president, if present, shall preside as chairman.

(*2*) If, when any meeting is held, the office of president is vacant, or the president is absent from the meeting and the vice-president is present, he shall preside as chairman.

(*3*) In any case not provided for in the foregoing portion of this section, the members present shall elect one of their number to be chairman of the meeting.

Vote of majority decisive.

24. (*1*) Except as otherwise provided by this Act or by any rule made under this Act, all questions coming before any meeting of a municipal committee shall be decided by a majority of the votes of the members present.

(*2*) In case of an equality of votes, the chairman at the meeting shall have a second or casting vote.

Resolutions to be recorded and published.

25. Every resolution passed by a municipal committee at a meeting shall be recorded in a book kept for the purpose, shall be signed by the chairman of the meeting or of the next ensuing meeting, shall be open to inspection by the public at the municipal office at all reasonable times without charge, and shall be published in some local English or Vernacular newspaper, or in such other manner as the Local Government may direct.

Language of committee.

26. The discussions and proceedings of a municipal committee shall be conducted and recorded either in English or in Burmese, as the committee at a special meeting may from time to time decide:

Provided that, if the discussions and proceedings are conducted and recorded in English, the committee shall provide for interpreting and translating them into Burmese for the benefit of members who do not understand English.

Power to make rules as to conduct of business.

27. (*1*) A municipal committee may from time to time, at a special meeting, make rules consistent with this Act as to—

(*a*) the time and place of its meetings;

(*b*) the manner in which notice thereof is to be given;

(*c*) the quorum necessary for the transaction of business at ordinary meetings;

(*d*) the conduct of proceedings at meetings, and the adjournment of meetings;

(*e*) the person or persons to be primarily responsible for the current executive administration and their powers; that is to say, what portion of the executive authority shall be exercised by the president, by the vice-president, by sub-committees, by individual members and by officers or servants of the committee;

(*f*) the persons by whom receipts may be granted on behalf of the committee for money paid under this Act; and

(*g*) any other similar matters.

(2) A rule made under clause (*e*) shall not take effect until it has been confirmed by the Local Government, and no rule made under this section shall take effect until it has been published in such manner as the Local Government may direct.

Extraordinary powers of president and vice-president in case of emergency.

28. In cases of emergency the president, or, in his absence, the vice-president, may direct the execution of any work or the doing of any act, which the committee is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be paid from the municipal fund:

Provided that—

(*a*) he shall not act under this section in contravention of any order of the committee passed at a meeting; and,

(*b*) where he acts under this section, he shall report his proceedings to the next following meeting of the committee.

Joint Committees.

Joint committee of two or more committees or cantonment authorities.

29. A municipal committee may from time to time concur with any other municipal committee or cantonment authority, or with more than one such committee or authority, in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of the joint committee, and in delegating to any such joint committee any power which might be exercised by either or any of the committees or authorities, and in framing and modifying regulations as to the proceedings of any such joint committee, and as to the conduct of correspondence relating to the purpose for which it is appointed.

Defects in Constitution and Irregularities.

Vacancies and irregularities not to invalidate proceedings.

30. Anything done or any proceeding taken under this Act shall not be questioned on account of any vacancy in a municipal committee or joint committee, or on account of any defect or irregularity not affecting the merits of the case.

Officers and Servants.

Appointment of secretary.

31. (*1*) A municipal committee shall from time to time, at a special meeting, appoint one of its members or some other person to be its secretary, and may at a like meeting remove any person so appointed.

(*2*) If a secretary is a member of the committee, he shall receive no remuneration in respect of his services. If he is not a member of the committee, the committee may, with the previous sanction of the Commissioner, assign to him any such pay as it thinks fit.

Employment of other officers and servants.

32. Subject to the other provisions of this Act, and to such rules as the Local Government may make prescribing the qualifications requisite in the case of persons appointed to offices requiring professional skill, a municipal committee may appoint and remove, in addition to its secretary, such other officers and servants as may be necessary or proper for the efficient execution of its duties, and may assign to those officers and servants such pay as it thinks fit.

Power to prevent extravagance in establishments.

33. If, in the opinion of the Commissioner, the number of persons employed by a municipal committee as officers or servants, or whom the committee propose to employ as such, or the remuneration assigned by the committtee to those persons or any of them, is excessive, the committee shall, on the requirement of the Commissioner, reduce the number of those persons or the remuneration, as the case may be:

Provided that the committee may appeal against any such requirement to the Local Government, and the decision of the Local Government on any such appeal shall be final.

Pensions of Government officials serving the committee.

34. In the case of a Government official, a municipal committee may—

(*1*) if his services are wholly lent to it, subscribe for his pension or gratuity and leave-allowances in accordance with the rules of the Government Civil Pension and Leave Codes for the time being in force; and,

(*2*) if he devotes only a part of his time to the performance of duties in behalf of the committee, contribute to his pension or gratuity and leave-allowances in such proportion as may be determined by the Government.

Pensions of other officers and servants.

35. In the case of an officer or servant not being a Government official referred to in section 34, a municipal committee may—

(*1*) grant him leave-allowances and, if he is employed under the committee appointed under the Lower Burma Municipal Act, 1874, when this Act comes into force, and is not entitled to pension, or if his monthly pay is less than ten rupees, a gratuity; and VII of 1874.

(*2*) if empowered in this behalf by the Local Government—

(*a*) subscribe in his behalf for pension or gratuity under the rules of the Government Civil Pension and Leave Codes for the time being in force; or,

(*b*) purchase for him from the Government or otherwise an annuity on his retirement:

Provided that no pension, gratuity, leave-allowance or annuity shall exceed the sum to which, under the Government Civil Pension and Leave Codes for the time being in force, the servant would be entitled if the service had been service under Government.

Contracts and Transfers of Property.

Mode of executing contracts and transfers.

36. (*1*) When a contract made by or on behalf of a municipal committee exceeds in value or amount one hundred rupees, it must be in writing, and must be signed by the president or vice-president and at least one other member of the committee.

(*2*) A transfer of immoveable property belonging to the committee must be made by an instrument in writing, executed by the president or vice-president and by at least two other members of the committee.

(*3*) If any such contract or transfer is executed or made otherwise than in conformity with the provisions of this section, it shall not be binding on the committee.

Penalty on member, officer or servant of committee being interested in contract made with committee.

37. (*1*) If any member, officer or servant of a municipal committee is, otherwise than with the permission in writing of the Commissioner, directly or indirectly interested in any contract made with the committee, he shall be deemed to have committed an offence under section 168 of the Indian Penal Code. XLV of 1860.

(*2*) A person shall not, by reason of being a shareholder in, or member of, any incorporated or registered company, be held to be interested in any contract entered into between the company and the committee, but he shall not take part in any proceedings of the committee relating to any such contract.

Acquisition of Land.

Acquisition of land under Act X of 1870.

38. Where any land, whether within or without the limits of a municipality, is required by a municipal committee for the purposes of this Act or for any other object which it is empowered to carry out under any other enactment for the time being in force, the Local Government may, at the request of the municipal committee, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the committee of the compensation awarded under that Act and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the committee.

X of 1870.

Privileges and Liabilities.

Suits against committee and its officers.

39. No suit shall be instituted against a municipal committee or against an officer of any such committee in respect of an act purporting to be done by him in his official capacity until the expiration of one month next after notice in writing has been, in the case of a committee, delivered to or left at its office, and in the case of an officer, delivered to him or left at his office or place of abode, stating the cause of action and the name and place of abode of the intending plaintiff; and the plaint must contain a statement that such notice has been so delivered or left:

Provided that this section shall not apply to any suit instituted under section 54 of the Specific Relief Act, 1877.

I of 1877.

Liability for loss, waste, or misapplication.

40. Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to a municipal committee, if the loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of the committee, and a suit for compensation may be instituted against him by the committee or by the Secretary of State for India in Council.

CHAPTER IV.

TAXATION.

General Provisions.

Taxes which may be imposed for general purposes of Act.

41. (*1*) Subject to any general rules or special orders which the Governor General in Council may make in this behalf, a municipal committee may, for the purposes of this Act, impose, with the sanction hereinafter specified in

each case, and in manner prescribed by section 45, any of the following taxes, namely :—

(*A*) with the previous sanction of the Local Government—

(*a*) a tax on buildings and lands situate within the municipality or any part thereof, not exceeding 5 per centum of the annual value of the buildings and lands;

(*b*) a tax on lands covered by buildings and situate as aforesaid, at a rate not exceeding one pie per square foot per annum;

(*c*) a tax on houses situate as aforesaid, according to the number of posts in each, at rates not exceeding the following, namely :—

	Rs.	A.	
For a house having not more than 2 posts . .	0	8	per annum.
For a house having 3 posts	1	8	„
For a house having 4 posts	2	8	„
For a house having 5 posts	4	0	„
For a house having 6 posts	7	0	„
For a house having 7 posts	10	0	„

and when a house has more than seven posts, four rupees eight annas additional per annum per each post above seven;

(*d*) a tax on vehicles, boats and animals used for driving, riding, draught or burden, and dogs, kept within the municipality or any part thereof;

(*B*) with the previous sanction of the Local Government and of the Governor General in Council, any other tax:

Provided as follows :—

(*e*) only one of the taxes mentioned in clauses (*a*), (*b*) and (*c*) shall be imposed in respect of the same property; and,

(*f*) in assessing a house to the tax mentioned in clause (*c*), only posts facing a road or street shall be counted, except in the case of bázárs or large buildings extending through from street to street, in which case the posts contained in one row from street to street, instead of those facing streets, may, in the discretion of the assessing authority, be counted.

(*2*) In this section "annual value" means the gross annual rent for which buildings and lands liable to taxation may reasonably be expected to let, and, in the case of houses, may be expected to let unfurnished:

Provided that, in the case of land assessed to land-revenue or of which the land-revenue has been wholly or in part released, compounded for, redeemed or assigned, if the Local Government so directs, the annual value shall be deemed to be double the amount of the land-revenue for the time being assessed on the land, whether such assessment is leviable or not; or, when the land-revenue

has been wholly or in part compounded for or redeemed, double the amount which, but for such composition or redemption, would have been leviable.

Water-tax.

42.[a] (*1*) Besides the taxes imposed under section 41, a municipal committee, with the previous sanction of the Local Government, may, for the purpose of constructing or maintaining works for the supply of water to the municipality or any part thereof, or paying the principal or interest of any loan raised for the construction of such works, impose, in manner prescribed by section 45, a tax, to be called the water-tax, upon buildings or lands which are so situated that their occupiers can benefit by the works.

(*2*) The rate or amount of the tax so imposed on different buildings or lands may be determined with reference, among other considerations, to their distance from the nearest point at which the water is deliverable by the works and to their level; but in fixing it regard shall be had to the principle that the total net proceeds of the tax, together with the estimated income from payments for water supplied from the works under special contracts or otherwise should not exceed the amount required for the said purpose.

Lighting-tax.

43. Besides the taxes imposed under the foregoing sections, a municipal committee, with the previous sanction of the Local Government, may, for the purpose of lighting the public streets throughout the municipality or any part thereof, or paying the principal or interest of any loan raised for the construction of works required for lighting those streets, impose, in manner prescribed by section 45, a tax, to be called the lighting-tax, upon buildings and lands situate within the municipality or that part thereof, as the case may be:

Provided that in fixing the rate or amount of the tax regard shall be had to the principle that the total net proceeds thereof should not exceed the amount required for the said purpose.

Scavenging-tax.

44. When a committee has, in exercise of the powers conferred by this Act provided for the performance, with regard to any buildings or lands, by its agents of the duties usually performed by sweepers, it may, with the previous sanction of the Local Government, impose, in manner prescribed by section 45, upon those buildings and lands, in addition to any other tax imposed upon them under this Act, a tax to be called the scavenging-tax, at such rate or of such amount as it thinks fit:

Provided that in fixing the rate or amount regard shall be had to the principle that the total net proceeds of the tax should not exceed the cost of the performance of the said duties.

Procedure in imposing such taxes.

45. (*1*) A municipal committee may resolve, at a special meeting, to propose the imposition of any tax under section 41, 42, 43 or 44.

[a] As to power of committee to turn off water on neglect to pay water-tax, see Act XIX of 1884, s. 34, *infra*, p. 289.

(*2*) When a resolution has been passed under sub-section (*1*), the committee shall publish a notice defining the persons or property proposed to be taxed, the amount or rate of the tax to be imposed and the system of assessment to be adopted.

(*3*) Any person likely to be directly affected by the proposed tax and objecting to the same may, within thirty days from the publication of the notice, submit his objection in writing to the committee; and the committee shall, at a special meeting, take his objection into consideration.

(*4*) If no objection is received within the said period of thirty days, or if the objections received, having been considered as aforesaid, are deemed insufficient, the committee may submit its proposals to the Local Government, with the objections (if any) which have been submitted as aforesaid and its decision thereon.

(*5*) The Local Government, on receiving such proposals, may sanction the same, or refuse to sanction them, or return them to the committee for further consideration.

(*6*) When the Local Government sanctions any such proposals which require the further sanction of the Governor General in Council, it shall submit those proposals to the Governor General in Council with the objections (if any) received through the committee; and the Governor General in Council may sanction the proposals, or refuse to sanction the same, or return them to the Local Government for further consideration.

(*7*) When the proposals of a municipal committee in respect of a tax have been sanctioned by the Local Government, or by the Local Government and the Governor General in Council, as the case may be, the committee may, at a special meeting, direct the imposition of the tax in accordance with those proposals.

(*8*) In giving such direction the committee shall fix a date from which the tax shall come into force:

Provided that—

(*a*) no tax shall come into force until it has been notified;

(*b*) no tax leviable by the year shall come into force except at the commencement of the year by which it is leviable; and,

(*c*) no other tax shall come into force less than six months from the date of the meeting at which its imposition is directed.

(*9*) A notification of the imposition of a tax under this Act shall be conclusive evidence that the tax has been imposed in accordance with the provisions of this Act.

Power to

46. A municipal committee may, at a special meeting, with the sanction

of the Local Government, abolish or reduce in amount any tax imposed under the foregoing sections. abolish or reduce tax.

47. (*1*) If it at any time appears to the Local Government, on complaint made or otherwise, that any tax imposed under the foregoing sections is unfair in its incidence, or that the levy thereof or of any part thereof is injurious to the interests of the general public, it may require the municipal committee to take, within a specified period, measures to remove the objection; and, if within that period the requirement is not complied with to the satisfaction of the Local Government, the Local Government may, by notification, suspend the levy of the tax or of any part thereof until the objection has been removed. Power to Local Government to suspend levy of tax.

(*2*) The Local Government may at any time, by a like notification, rescind any such suspension.

48. (*1*) The Local Government may make rules for the assessment, collection and remission of taxes leviable under this Act and preventing evasion of the same: Power to make rules for assessment, collection and remission of taxes.

Provided that every such rule shall be consistent with the provisions of this Act and with the proposals sanctioned in respect of the tax under section 45.

(*2*) In making any rule under this section the Local Government may direct that a breach of any provision thereof shall be punishable with fine which may extend to fifty rupees.

49. No tax imposed under this Act shall be invalid merely for defect of form; and it shall be enough in any such tax on property, or any assessment of value for the purpose of the tax, if the property taxed or assessed is so described as to be generally known; and it shall not be necessary to name the owner or occupier thereof. Taxes not invalid for defect of form.

50. All taxes leviable in any local area under the Lower Burma Municipal Act, 1874, at the time when a municipal committee having authority over that local area comes into existence under this Act, shall, so far as their imposition and assessment are consistent with this Act and within the powers conferred thereby, be deemed to have been imposed and assessed under this Act. Taxes leviable under Act VII of 1874 to be deemed to be taxes under this Act.

VII of 1874.

Taxes on Immoveable Property.

51. (*1*) The committee shall cause an assessment-list of all buildings and lands on which any tax is imposed to be prepared, containing— Preparation of assessment-list.

(*a*) the name of the street or division in which the property is situate;

(*b*) the designation of the property, either by name or by number, sufficient for identification;

(*c*) the names of the owner and occupier, if known;

(*d*) the annual value, area or number of posts on which the property is assessed; and

(*e*) the amount of the tax assessed thereon by the committee.

(*2*) For the purpose of preparing the list, the committee may require the owners or occupiers of the buildings or lands to furnish it with returns of the measurements or number of posts or of the rent or annual value.

Publication of notice of assessments.

52. When the assessment-list has been completed, the committee shall give public notice thereof, and of the place where the list or a copy thereof may be inspected; and every person claiming to be either owner or occupier of property included in the list, or the agent of any such person, shall be at liberty to inspect the list and to make extracts therefrom without charge.

Public notice of time fixed for revising assessment-list.

53. (*1*) The committee shall at the same time give public notice of a time, not less than one month from the publication of the notice, when it will proceed to revise the assessment; and in all cases in which any property is for the first time assessed, or the assessment thereof is increased, it shall also give notice thereof to the owner or occupier of the property.

(*2*) All objections to the assessment shall be made in writing before the time fixed in the notice, or orally or in writing at that time.

Settlement of list.

54. (*1*) After the objections have been enquired into and the persons making them have been allowed an opportunity of being heard either in person or by authorized agent as they think fit and the revision of the assessment has been completed, the amendments made in the list shall be authenticated by the signatures of not less than two members of the committee, who shall at the same time certify that no valid objection has been made to the assessment contained in the list, except in the cases in which amendments have been entered therein; and, subject to such amendments as may thereafter be duly made, the tax so assessed shall be deemed to be the tax for the whole year by which it is leviable next following that in which the assessment is made.

(*2*) The list when amended under this section shall be deposited in the committee's office, and shall there be open during office-hours to all owners and occupiers of property comprised therein, and a public notice that it is so open shall forthwith be published.

Further amendments of assessment-list.

55. (*1*) The committee may at any time amend the list by inserting the name of any person whose name ought to be inserted, or by inserting any property which ought to have been inserted, or by altering the assessment on any property which has been insufficiently assessed through mistake, oversight or fraud, after giving notice to any person interested in the amendment of a

time, not less than one month from the date of service of such notice, at which the amendment is to be made.

(*2*) Any person interested in any such amendment may tender his objection to the committee in writing before the time fixed in the notice, or orally or in writing at that time, and shall be allowed an opportunity of being heard in support of the same in person or by authorized agent as he thinks fit.

New list need not be prepared every year.

56. It shall be in the discretion of the committee to prepare a new assessment-list every year ; or to adopt the assessment contained in the list for any year, with such alterations as may in particular cases be deemed necessary, as the assessment for the year following, giving the same notice of the assessment as if a new assessment-list had been prepared.

Remission of tax on unoccupied immoveable property.

57. When a tax payable under section 41, clause (*a*), (*b*) or (*c*), or under section 42, 43 or 44, is payable in one sum in respect of an entire year, and the property in respect of which it is payable is unoccupied throughout the year, or when such a tax is payable in instalments and the property is unoccupied throughout the period in respect of which an instalment is payable, the amount payable in respect of the property for the year, or the instalment, as the case may be, shall be remitted :

Provided that it shall be in the discretion of the committee to direct that no remission shall be granted unless notice in writing of the vacancy has been given to it within such time from the beginning of the year or of the period as it may from time to time fix in this behalf.

Joint and several liability of owners and occupiers for property, water, lighting and scavenging taxes.

58.[a] Every tax payable under section 41, clause (*a*), (*b*) or (*c*), or section 42, 43 or 44, in respect of any building or land, shall be payable jointly and severally by all persons who have been either owners or occupiers of the building or land at any time during the year of assessment, or, when the tax is payable by instalments, at any time during the period in respect of which the instalment is payable.

Liability of owners and occupiers as between themselves for property, water, lighting and scavenging taxes.

59.[a] (*1*) In the absence of any agreement to the contrary between an owner and an occupier of any building or land, any tax payable under section 41, clause (*a*), (*b*) or (*c*), which is paid by or recovered from the occupier, shall be recoverable by him from the owner, and any tax payable under section 42, 43 or 44, which is paid by or recovered from the owner, shall be recoverable by him from the occupier.

(*2*) A sum recoverable under sub-section (*1*) by an occupier from an owner may be deducted by the occupier from any rent due or afterwards accruing due from him to the owner.

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[a] Ss. 58 and 59 have been substituted by Act XIX of 1888, s. 2 -see *infra*, p. 291.

CHAPTER V.

FUNDS AND PROPERTY.

Municipal fund constituted.

60. There shall be formed for each municipality a municipal fund, and there shall, except as by this Act provided, be credited thereto—

(*a*) all sums received by or on behalf of the committee under this Act or otherwise;

(*b*) all fines realized in cases in which prosecutions are instituted under this Act or the rules made hereunder or under section 34 of Act V of 1861 for offences committed within the municipality;

(*c*) any sums which the Local Government may annually assign, as it is hereby empowered to do, to the municipal fund from the port fund of any port abutting on or within the municipality as being in its opinion a just and reasonable contribution towards the expenditure rendered necessary by the resort to the municipality of seamen from ships lying in the port; and

(*d*) when there has been included within the municipality a municipality constituted under the Lower Burma Municipal Act, 1874, the balance (if any) standing at the credit of the funds of that municipality at the time when the municipal committee came into existence. VII of 1874.

Application of fund.

61. (*1*) The committee shall set apart and apply annually out of the municipal fund—

(*a*) *first*, such sum as may be required for the payment of any amounts falling due on any loan legally contracted by it;

(*b*) *secondly*, such sum as may be required to meet the charges of its own establishment, including such subscriptions and contributions as are referred to in sections 34 and 35;

(*c*) *thirdly*, such sum as may be required to pay the expenses of pauper lunatics sent to public asylums from the municipality, the expenses incurred in auditing the accounts of the committee, and such portion of the cost of the Provincial Departments for Education, Sanitation, Vaccination, Medical Relief and Public Works as may be held by the Local Government to be equitably debitable to the committee in return for services rendered to it by these Departments.

(*2*) Subject to the charges specified in sub-section (*1*) and to such rules as the Local Government may make with respect to the priority to be given to the several duties of the committee, the municipal fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the following matters within the municipality, and with the sanction of the Com-

missioner outside the municipality, when such application of the fund is for the benefit of the inhabitants, namely :—

(*a*) the construction, maintenance, improvement, cleansing and repair of streets, and of public bridges, embankments, drains, latrines, tanks and watercourses;

(*b*) the watering and lighting of the streets or any of them;

(*c*) the construction, establishment and maintenance of schools, hospitals and dispensaries, and other institutions for the promotion of education or for the benefit of the public health, and of rest-houses, zayáts, wharves, poor-houses, markets, encamping-grounds, pounds and other works of public utility, and the control and administration of public institutions of any of these descriptions;

(*d*) grants-in-aid to schools, hospitals, dispensaries, poor-houses, leper asylums and other educational or charitable institutions;

(*e*) the training of teachers and the establishment of scholarships;

(*f*) the giving of relief and the establishment and maintenance of relief-works in time of famine or scarcity;

(*g*) the supply, storage and preservation from pollution of water for the use of men or animals;

(*h*) the planting and preservation of trees;

(*i*) the taking of a census, the registration of births, marriages and deaths, public vaccination and any other sanitary measure;

(*j*) the holding of fairs and industrial exhibitions; and

(*k*) all acts and things likely to promote the safety, health, welfare or convenience of the inhabitants.

School fund.

62. (*1*) There shall be formed for each municipality a school fund. To this fund shall be credited—

(*a*) the fees levied in schools maintained at the cost of the school fund;

(*b*) any assignment that may be made to the school fund from provincial funds or from any district or local fund;

(*c*) any other funds or income that may be entrusted to the municipality for the promotion of education; and

(*d*) any sums assigned for educational purposes from the municipal fund.

(*2*) The Local Government may fix for any municipality the minimum proportion of the municipal fund that shall be yearly assigned to the school fund under clause (*d*) : Provided that the minimum so fixed shall not exceed five per cent. on the gross annual income of the municipality.

(*3*) No expenditure, except expenditure for the promotion of education, shall be charged against the school fund. In case of doubt the Commissioner

shall decide whether any expenditure is or is not for the promotion of education.

Custody of, and disbursements from, funds.

63. (*1*) The balances standing to the credit of the municipal fund and school fund shall, if there is a Government treasury or sub-treasury or a bank to which the Government treasury business has been made over situate within the municipality, be kept in that treasury, sub-treasury or bank. In any other case the bulk of the funds shall be kept in the nearest Government treasury or sub-treasury or bank as aforesaid, and such money as may be required for current expenditure shall be kept by the committee in a strong box in such place and under such precautions as the committee may from time to time direct.

(*2*) No disbursement of such funds or any part thereof shall be made except under the signature of the president or vice-president and one other member of the committee.

Investment of same.

64. (*1*) A municipal committee may from time to time, with the previous sanction of the Local Government, invest any portion of its municipal fund or school fund in securities of the Government of India or such other securities as the Governor General in Council may approve in this behalf, and vary such investments for others of the like nature.

(*2*) The income resulting from the securities and the proceeds of the sale of the same shall be credited to the municipal fund or school fund, as the case may be.

Property vested in municipality.

65. Subject to any special reservation made by the Local Government, all property in a municipality of the nature hereinafter specified shall be vested in and belong to the municipal committee, and shall, with all other property which may become vested in the committee, be under its direction, management and control, and shall be held and applied by it for the purposes of this Act, that is to say:—

(*a*) all public town-halls, gates, markets, slaughter-houses, manure and night-soil depôts and public buildings of every description which have been constructed or are maintained out of municipal funds;

(*b*) all public streams, tanks, reservoirs, cisterns, wells, springs, aqueducts, conduits, tunnels, pipes and other waterworks, and all bridges, buildings, engines, works, materials and things connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank or well;

(*c*) all public sewers and drains, and all sewers, drains, tunnels, culverts, gutters and watercourses in, alongside or under any street, and all works, materials and things appertaining thereto;

(*d*) all dust, dirt, dung, ashes, refuse, animal-matter or filth, or rubbish of any kind, collected by the committee from the streets, houses, privies, sewers, cesspools or elsewhere;

(*e*) all public lamps, lamp-posts and apparatus connected therewith or appertaining thereto;

(*f*) all land or other property transferred to the committee by the Government or by gift or otherwise for local public purposes; and

(*g*) all streets, and the pavements, stones and other materials thereof, and also all trees, erections, materials, implements and things, provided for such streets.

Management of public institutions.

66. (*1*) The management, control and administration of every public institution maintained out of municipal funds shall vest in the committee:

Provided that the extent of the independent authority of the committee in respect of any such institution may be prescribed by the Local Government.

(*2*) When any public institution is placed under the direction, management and control of the committee, all property, endowments and funds belonging thereto shall be held by the committee in trust for the purposes to which such property, endowments and funds were lawfully applicable at the time when the institution was so placed.

Transfer to Crown of property vesting in committee.

67. The committee may, with the sanction of the Local Government, transfer to Her Majesty any property vesting in the committee under section 65 or section 66, but not so as to affect any trusts or public rights subject to which the property is held.

CHAPTER VI.

Powers for Sanitary and other Purposes.

Streets and Buildings.

Power to acquire land for building-sites adjoining new streets.

68. When any land is required for a new street or for the improvement of an existing street, the committee may proceed to acquire, in addition to the land to be occupied by the street, the land necessary for the sites of the buildings to be erected on the sides of the street.

Power to close streets.

69. The committee may close temporarily any street vested in it or any part thereof for the purpose of repairs, or for the purpose of constructing or repairing any sewer, drain, culvert or bridge, or for any other public purpose; and may divert, discontinue or permanently close any such street, and sell the land or such part thereof as is not required for the purposes of this Act.

Power to

70. The committee may grant permission in writing for the temporary

permit temporary occupation of streets, &c.

occupation of any street or land vested in it for the purpose of depositing any building materials or making any temporary excavation therein or erection thereon, subject to such conditions as it may prescribe for the safety or convenience of persons passing by or dwelling or working in the neighbourhood, and may charge fees for such permission, and may at its discretion withdraw the permission.

Power to attach brackets for lamps.

71. The committee may attach to the outside of any building brackets for lamps in such manner as not to occasion any injury thereto or inconvenience.

Names of streets and numbers of buildings.

72. (*1*) The committee at a meeting may cause a name to be given to any street, and to be affixed on any building in such place as it thinks fit, and may also cause a number to be affixed to any building; and in like manner may, from time to time, cause such names and numbers to be altered.

(*2*) Whoever destroys, pulls down or defaces any such name or number, or puts up any different name or number from that put up by order of the committee, shall be punishable with fine which may extend to twenty rupees.

Roofs and external walls not to be made of inflammable materials.

73. The committee at a meeting may direct that, within certain limits, to be fixed by it, the external roofs and walls of huts or other buildings shall not be made or renewed of bamboos, grass, mats, leaves or other highly inflammable materials unless with the permission of the committee in writing; and the committee may, by written notice, require any person who has disobeyed any such direction to remove or alter the roofs or walls so made or renewed as it may think fit.

Power to regulate line of buildings.

74. (*1*) If any building or part of a building projects beyond the regular line of a public street, either existing or determined on for the future, or beyond the front of the building on either side thereof, the committee may, whenever the building or part has been either entirely or in greater part taken down or burnt down, or has fallen down, by notice require the building or part, when being rebuilt, to be set back to or towards the said regular line or the front of the adjoining buildings; and the portion of the land added to the street by such setting back or removal shall become part of the public street and shall vest in the committee:

Provided that the committee shall make full compensation to the owner for any damage he may sustain in consequence of his building or any part thereof being set back.

(*2*) The committee may, on such terms as it thinks fit, allow any building to be set forward for the improvement of the line of the street.

Notice of new buildings.

75. (*1*) Every person intending to erect or re-erect any building shall, if required to do so by rule made by the committee in this behalf, give notice in writing of his intention to the committee, and shall, if required to do so, sub-

mit a plan showing the levels at which the foundation and lowest floor are proposed to be laid, and specifications of the works intended to be constructed, and the materials to be used, and shall obey all written directions consistent with this Act given by the committee within one month after receiving such notice, either prohibiting the erection or re-erection, if deemed likely to be injurious to the inhabitants of the neighbourhood, or in respect of all or any of the matters following, namely:—

(*a*) free passage or way in front of the building;

(*b*) space to be left about the building to secure free circulation of air and facilitate scavenging;

(*c*) ventilation and drainage;

(*d*) level and width of foundation, level of lowest floor and stability of structure; and

(*e*) the line of frontage with neighbouring buildings, if the building abuts on a street or public thoroughfare:

Provided that the committee shall make full compensation to the owner for any damage he may sustain in consequence of the prohibition of the erection or re-erection of any building, or of its requiring any land belonging to him to be added to the street.

(*2*) If any such building is begun or erected without giving notice, or without submitting particulars as aforesaid when required, or in contravention of the legal orders of the committee issued within one month, the committee may by notice require the building to be altered or demolished, as it may deem necessary.

Explanation.—The expression "erect any building" includes all additions or alterations which involve new foundations or increased superstructure on existing foundations, or the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only.

Removal of projections and obstructions.

76. (*1*) It shall not be lawful, unless with the written permission of the committee, for the owner or occupier of any building in a public street to add to, or place against or in front of, the building any projection or structure overhanging, projecting into or encroaching on the street or into or on any drain, sewer or aqueduct therein.

(*2*) The committee may, by notice, require the owner or occupier of any building to remove or alter any projection, encroachment or obstruction built or placed against or in front thereof if the same overhangs or projects into or

encroaches on any public street, or projects into or encroaches on any drain, aqueduct or sewer in the street:

Provided that, in the case of a projection, encroachment or obstruction being lawfully in existence at the time of the passing of this Act, the committee shall make reasonable compensation to any person who suffers damage by the removal or alteration.

(*3*) The committee may give written permission to the owners or occupiers of buildings in public streets to put up open verandahs, balconies or rooms projecting from any upper storey thereof to an extent beyond the line of the plinth or basement-wall, and at a height from the level of the ground or street to be specified in the written permission.

Bathing and Washing Places.

Bathing and washing places.

77. The committee may set apart suitable places for the purpose of bathing, and may specify the times at which, and the sex of the persons by whom, such places may be used, and may also set apart suitable places for washing animals or clothes, or for any other purpose connected with the health, cleanliness or comfort of the inhabitants; and may, by public notice, prohibit bathing, or washing animals or clothes, in any public place not so set apart, or at times or by persons other than those so specified, and all other acts not so permitted by which water in public places may be rendered foul or unfit for use.

Deposit of Offensive Matter and Slaughter-places.

Removal and deposit of offensive matter.

78. The committee may fix places within or, with the approval of the Deputy Commissioner, beyond the limits of the municipality for the deposit of refuse, rubbish or offensive matter of any kind or for the disposal of the dead bodies of animals, and may by public notice give directions as to the time, manner and conditions at, in and under which such refuse, rubbish or offensive matter or dead bodies of animals may be removed along any street and deposited at such places.

Places for slaughter of animals.

79. (*1*) The committee may, with the approval of the Deputy Commissioner, fix and abolish places either within or without the limits of the municipality for the slaughter of animals for sale, or of any specified description of such animals, and may with the like approval grant and withdraw licenses for the use of such places, or, if they belong to the committee, charge rent or fees for the use of the same.

(*2*) When such places are fixed by the committee beyond municipal limits, it shall have the same power to make rules for the inspection and proper regulation of the same as if they were within those limits.

(3) When any such place has been fixed, no person shall slaughter any such animal for sale within the municipality at any other place.

(4) Whoever slaughters any such animal for sale at any other place within the municipality shall be punishable with fine which may extend to twenty rupees.

Burial and Burning Places.

Powers in respect of burial and burning places.

80. (1) The committee may, by public notice, order any burial or burning ground which is, in its opinion, dangerous to the health of persons living in the neighbourhood, to be closed, from a date to be specified in the notice, and shall, in such case, if no suitable place for burial or burning exists within a reasonable distance, provide a fitting place for the purpose.

(2) Private burial-places in such burial-grounds may be excepted from the notice, subject to such conditions as the committee may impose in this behalf:

Provided that the limits of such burial-places are sufficiently defined, and that they shall only be used for the burial of members of the family of the owner thereof.

(3) No burial or burning ground, whether public or private, shall be made or formed, after the passing of this Act, without the permission in writing of the committee.

(4) If any person buries or burns, or causes or permits to be buried or burnt, any corpse in any burial or burning ground made or formed contrary to the provisions of this section, or after the date fixed thereunder for closing the same, he shall be punishable with fine which may extend to fifty rupees.

Removal of corpses.

81. The committee may, by public notice, prescribe routes for the removal of corpses to burial or burning places.

Inflammable Materials.

Inflammable materials.

82. The committee may, where it appears to it to be necessary for the prevention of danger to life or property, by public notice, prohibit all persons from stacking or collecting bamboos, dry grass, straw or other inflammable materials, or placing mats on thatched huts or lighting fires in any place or within any limits specified in the notice.

Powers of Entry and Inspection.

Inspection of drains, privies and cesspools.

83. (1) The committee, by any person authorized by it in this behalf, may, after giving six hours' notice in writing to the occupier of any land or building in which any drains, privies or cesspools are situated, inspect any such drains, privies and cesspools at any time between sunrise and sunset, and

may, if necessary, cause the ground to be opened where the committee or person may think fit for the purpose of preventing or removing any nuisance arising from the privies, drains or cesspools.

(2) If, on such inspection, it appears that the opening of the ground was necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner of occupier of the land or building; but if it is found that no nuisance exists, or but for such opening would have arisen, the ground shall be closed and made good as soon as may be, and the expense of opening, closing and making it good shall be borne by the committee.

Power to enter and inspect buildings, &c.

84. The committee, by any person authorized by it in this behalf, may, after giving twenty-four hours' notice to the occupier, or, if there is no occupier, to the owner, of any building, at any time between sunrise and sunset, enter and inspect the building, and may by notice direct all or any part thereof to be forthwith internally or externally lime-washed, disinfected or otherwise cleansed for sanitary reasons.

Other powers of entry on buildings or land.

85. The committee, by any person authorized by it in this behalf, may, after giving twenty-four hours' notice to the occupier, or, if there is no occupier, to the owner, of any building or land, at any time between sunrise and sunset—

(*a*) enter on and survey and take levels of any land;

(*b*) enter, inspect and measure any building for the purpose of valuation;

(*c*) enter into any building or on any land for the purpose of examining works under construction, of ascertaining the course of sewers or drains, or of executing or repairing any work which it is by this Act empowered to execute or maintain.

Power to enter for discovery of vehicles or animals liable to taxation.

86. The committee, by any person authorized by it in this behalf, may, at any time between sunrise and sunset, enter and inspect any stable, coach-house or other place wherein there is reason to believe that there is any vehicle or animal liable to taxation under this Act and which has not been so taxed.

Power to inspect places for sale of food or drink, &c., and to seize unwholesome articles exposed for sale.

87. The committee, by any person authorized by it in this behalf, may, at all reasonable times, enter into and inspect any market, building, shop, stall or place used for the sale of food or drink for man, or as a slaughter-house, or for the sale of drugs, and inspect and examine any food or drink, drug or animal which may be therein; and, if any article of food or drink or any animal therein appears to be intended for the consumption of man and to be unfit therefor, may seize and remove the same, or may cause it to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for such consumption;

and, in case any drug is reasonably suspected to be adulterated in such manner as to lessen its efficacy or to change its operation or to render it noxi-

ous, may remove the same, giving a receipt therefor, and may cause it to be brought before a Magistrate for enquiry whether any offence has been committed in respect thereof, and for his orders as to its disposal.

Power of entry for purpose of scavenging.

88. (*1*) The committee may provide for the performance by its agents of the duties usually performed by sweepers in respect of any buildings or lands, or of any privies, drains, cesspools or other receptacles for offensive matter pertaining to buildings or land, with the consent of the occupier of the building or land, or without such consent if the occupier fails to make arrangements to the satisfaction of the committee for the performance of such duties.

(*2*) When the committee has undertaken to provide for the performance by its agents of such duties as aforesaid, the persons employed by it to perform the same may enter on the property at all reasonable times so far as may be necessary for the proper discharge of those duties; and the committee, by any person authorized by it in this behalf, may enter on the property at all reasonable times for the purpose of ascertaining that such duties have been duly performed.

Precautions to be observed in entering dwelling.

89. When any building, used as a human dwelling, is entered under this Act, due regard shall be paid to the social and religious sentiments of the occupiers; and before any apartment in the actual occupancy of any woman, who, according to custom, does not appear in public, is entered under this Act, notice shall be given to her that she is at liberty to withdraw, and every reasonable facility shall be afforded to her for withdrawing.

Water-pipes, Privies and Drains.

Troughs and pipes for rain-water.

90. The committee may, by notice, require the owner of any building in any street to put up and keep in good condition proper troughs and pipes for receiving and carrying the water from the roof and other parts thereof and for discharging the same so as not to inconvenience persons passing along the street.

Provision of privies, &c.

91. (*1*) The committee may, by notice, require the owner of any building to provide any privy or cesspool, or additional privies or cesspools, which should in its opinion be provided for the building, in such manner as the committee directs.

(*2*) The committee may, by notice, require any persons employing more than twenty workmen or labourers to provide such latrines and urinals as it may think fit, and to cause the same to be kept in proper order and to be daily cleaned.

(*3*) The committee may, by notice, require the owner or occupier of any building or land to have any privy provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in

the neighbourhood, or to remove or alter, as the committee directs, any door or trapdoor of a privy opening on to any street or drain.

Repair, alteration and closing of drains, privies and cesspools.

92. (*1*) The committee may, by notice, require the owner or occupier of any building or land to repair or alter and put in good order any drain, privy or cesspool, or to close any cesspool, belonging thereto.

(*2*) The committee may, by notice, require any person who constructs any new drain, privy or cesspool without its permission in writing, or contrary to its directions or regulations or to the provisions of this Act, or who constructs, rebuilds or opens any drain, privy or cesspool which it has ordered to be demolished or stopped up or not to be made, to demolish the drain, privy or cesspool, or to make such alteration therein as it thinks fit.

Unauthorized buildings over drains, &c.

93. The committee may, by notice, require any person who, without its permission in writing, newly erects or rebuilds any building over any sewer, drain, culvert, watercourse or water-pipe vested in the committee to pull down or otherwise deal with the same as it thinks fit.

Removal of latrines, &c., near any source of water-supply.

94. The committee may, by notice, require any owner or occupier on whose land any drain, latrine, urinal, cesspool or other receptacle for filth or refuse for the time being exists within fifty feet of any spring, well, tank, reservoir or other source from which water is or may be derived for public use, to remove or close the same within one week.

Power to require drainage, &c., of unwholesome tanks, &c.

95. The committee may, by notice, require the owner or occupier of any land or building to cleanse, repair, cover, fill up or drain off any private tank, well, reservoir, pool or excavation therein, which appears to the committee to be injurious to health or offensive to the neighbourhood:

Provided that, if for the purpose of effecting any drainage under this section it is necessary to acquire any land not belonging to the person who is required to drain his land or to pay compensation to any other person, the committee shall provide the land or pay the compensation.

Dangerous Buildings and Places.

Power to require buildings, wells, tanks, &c., to be secured.

96. If any building or any well, tank or other excavation, is, for want of sufficient repair, protection or enclosure, dangerous to persons passing by or dwelling or working in the neighbourhood, the committee may, by notice, require the owner or occupier thereof to repair, protect or enclose the same; and, if it appears to it to be necessary in order to prevent imminent danger, it shall forthwith take such steps as are necessary to avert the danger.

Buildings, &c., in ruinous or dangerous state.

97. If any building, wall, structure or anything affixed thereto is deemed by the committee to be in a ruinous state or in any way dangerous, it may, by notice, require the owner or occupier thereof forthwith either to remove the

same or to cause such repairs to be made to the building, wall or structure as the committee considers necessary for the public safety; and, if it appears to it to be necessary in order to prevent imminent danger, the committee shall forthwith take such steps as are necessary to avert the danger.

Buildings and Grounds in unsanitary Condition.

Power to require owner to clear away noxious vegetation.

98. The committee may, by notice, require the owner or occupier of any land to clear away and remove any thick or noxious vegetation, jungle or undergrowth which appears to the committee to be injurious to health or offensive to the neighbourhood.

Power to trim hedges and trees bordering on streets, wells, &c.

99. The committee may, by notice, require the owner or occupier of any land, within three days, to cut or trim the hedges thereof bordering on any street, or branches of trees growing thereon which overhang any street and obstruct the same or cause danger thereto, or which so overhang any well, tank or other source from which water is derived for public use as to be likely to pollute the water thereof.

Cleansing of filthy buildings or land.

100. If the owner or occupier of any building or land suffers the same to be in a filthy or unwholesome state, the committee may, by notice, require him within twenty-four hours to cleanse the same or otherwise put it in a proper state.

Power to prohibit use for human habitation of buildings unfit for such use.

101. If any building appears to the committee to be unfit for human habitation in consequence of the want of proper means of drainage or ventilation or other sufficient reason, the committee may, by notice, prohibit the owner or occupier thereof from using the same for human habitation or suffering it to be so used, until the committee is satisfied that it has been rendered fit for such use.

Power to require untenanted buildings becoming a nuisance to be secured or enclosed.

102. The committee may, by notice, require the owner or person claiming to be the owner of any building or land which, by reason of abandonment or disputed ownership or other cause, remains untenanted and thereby becomes a resort of idle and disorderly persons or otherwise a nuisance, to secure or enclose the same within a reasonable time fixed in the notice.

Cultivation, use of manure or irrigation injurious to health, after prohibition.

103. (*1*) The committee, on the report of the Sanitary Commissioner that the cultivation of any description of crop or the use of any kind of manure or the irrigation of land in any specified manner in any place within the limits of the municipality is injurious to the health of persons dwelling in the neighbourhood, may, with the previous sanction of the Local Government, by notification prohibit the cultivation of the crop, the use of the manure or the irrigation so reported to be injurious, or regulate it by imposing such conditions thereon as may prevent the injury:

Provided that when on any land to which the notification applies that description of crop has been cultivated, that kind of manure has been used or irrigation has been practised in that manner during the five years preceding the notification with such continuity as the ordinary course of husbandry admits of, compensation shall be paid from the municipal fund to all persons interested in that land for any damage caused to them by the prohibition or regulation.

(*2*) If any person cultivates, uses manure or irrigates in disregard of the prohibition or conditions notified under sub-section (*1*), he shall be punishable with fine which may extend to fifty rupees, and with a further fine which may extend to five rupees for every day after the first during which the offence is continued.

Offensive and Dangerous Trades.

Regulation of offensive and dangerous trades.

104. (*1*) The owner or occupier of every place within the municipality used for any of the following purposes, namely:—

melting tallow;

boiling bones, offal or blood; or,

as a soap-house, oil-boiling house, dyeing-house or tannery; or,

as a brickkiln, pottery or limekiln; or,

as any other manufactory or place of business from which offensive or unwholesome smells arise; or,

as a yard or depôt for trade in hay, straw, thatching-grass, wood or coal or other dangerously inflammable material; or,

as a store-house for kerosine, petroleum, naphtha or any inflammable oil, spirit or explosive substance;

shall register the same in a book to be kept by the committee for the purpose.

(*2*) No place shall be newly used for any of the said purposes except under a license from the committee, which shall be renewable annually.

(*3*) The license shall not be withheld unless the committee considers that the business which it is intended to establish or maintain would be offensive or dangerous to persons residing in, or frequenting, the immediate neighbourhood.

(*4*) The committee may impose such conditions in respect of such license as it may think necessary.

(*5*) Whoever, without such registration or without a license, uses any place for any such purpose shall be punishable with fine which may extend to fifty rupees, and with further fine not exceeding ten rupees for every day during which the offence is continued after he has been convicted of such offence.

105. (*1*) If it is shown to the satisfaction of the committee at a meeting that any place registered or licensed under the last preceding section is a nuisance to the neighbourhood or likely to be dangerous to life, health or property, it may, by notice, require the occupier thereof to discontinue the use of the place, or to use it in such manner as will, in the opinion of the committee, render it no longer a nuisance or dangerous. Power to prohibit such trades.

(*2*) Whoever, after such notice has been given, uses the place or permits it to be used in such a manner as to be a nuisance to the neighbourhood or dangerous, shall be punishable with fine which may extend to two hundred rupees, and with further fine not exceeding forty rupees for every day during which the offence is continued after he has been convicted of such offence.

Power to make Rules.

106. A committee may, from time to time, at a special meeting, make rules— Power to make rules.

(*a*) for rendering licenses necessary for the proprietors or drivers of vehicles, boats or animals plying for hire within the limits of the municipality, and fixing the fees payable for such licenses and the conditions on which they are to be granted and may be revoked ;

(*b*) for limiting the rates which may be demanded for the hire of any carriage, cart, boat or other conveyance, or of animals hired to carry loads, or for the services of persons hired to carry loads, and the loads to be carried by such conveyances, animals or persons, where they are hired within the municipality for a period not exceeding twenty-four hours, or for a service which would ordinarily be performed within twenty-four hours ;

(*c*) for securing a proper registration of births, marriages and deaths, and for the taking of a census ;

(*d*) for fixing, and from time to time varying, the number of persons who may occupy a building or part of a building which is let in lodgings or occupied by members of more than one family ;

for the registration and inspection of such buildings ;

for promoting cleanliness and ventilation in such buildings ;

for the notices to be given and the precautions to be taken in the case of any infectious disease breaking out in such buildings ;

and generally for the proper regulation of such buildings ;

(*e*) for the inspection and proper regulation of encamping grounds, pounds, zayáts, wharves not within the limits of any port, markets and slaughter-houses ;

(*f*) for the holding of fairs and industrial exhibitions within the municipality and under its control;

(*g*) for controlling and regulating the use and management of burial and burning grounds;

(*h*) for the supervision and regulation of public wells, tanks, springs or other sources from which water is or may be made available for public use; and

(*i*) for carrying out the purposes of this Act[a]:

Provided that the committee of a municipality in which the Hackney Carriage Act, 1879[b], is in force shall not make rules under clauses (*a*) and (*b*) in respect of any vehicles to which that Act applies. XIV of 1879.

Penalty for infringement of rules.

107. In making any rule under section 106 the committee may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and, when the breach is a continuing breach, with a further fine which may extend to five rupees for every day after the first during which the breach continues. In lieu of, or in addition to, such fine the Magistrate may require the offender to remedy the mischief so far as within his power.

Confirmation of rules.

108. No rule made under section 106 shall come into force until it has been confirmed by the Local Government and published for such time and in such manner as the Local Government may prescribe in this behalf.

Supplemental.

Execution of acts required to be done by any notice.

109. (*1*) When any notice under this chapter requires any act to be done for which no time is fixed by this Act, it shall fix a reasonable time for doing the same.

(*2*) When the owner or occupier of any land or building fails to comply with the terms of any notice under this chapter requiring him to do any act upon that land or building, the committee may, after six hours' notice, by its officers, cause the act to be done.

Recovery of costs of execution.

110. (*1*) Where, under this Act, the owner or occupier of property is required by the committee to execute any work and makes default in complying with the requirement, and the committee executes the work, the committee may recover the cost of the work from the person in default.

(*2*) If the person in default is the owner, the committee may, by way of additional remedy, recover the whole or any part of the cost from the occupier, and in such case the occupier may deduct any sum paid by him under

[a] For power to make rules under the Vaccination Act, 1880, in municipalities to which that Act extends, see Act XIII of 1880, s. 19, *supra*, p. 164.

[b] See *supra*, p. 35.

this sub-section from the rent from time to time becoming due from him to the owner of the property in respect of which the payment is made, or otherwise recover it from the owner:

(*3*) Provided that an occupier shall not be required to pay, under the last sub-section, any greater sum than the amount of rent which is for the time being due from him to the owner, or which, after demand for payment of the money payable by him to the committee and notice not to pay rent without first deducting the amount so demanded, becomes payable by him to the owner, unless he refuses on application to him by the committee truly to disclose the amount of his rent and the name and address of the person to whom it is payable; but the burden of proof that the sum so demanded by the committee from the occupier exceeds the rent due at the time of the demand, or which has since accrued due, shall lie on the occupier.

(*4*) All money recoverable by a committee under this section may be recovered either by suit, or on application to a Magistrate having jurisdiction within the municipality by distress and sale of the moveable property of the person from whom the money is recoverable, and if payable by the owner of property shall, until it is paid, be a charge on the property.

(*5*) Nothing in this section shall affect any contract between an owner and an occupier.

Compensation out of municipal fund.

111. (*1*) The committee may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in the committee, its officers and servants, under this Act, and shall make such compensation where the person sustaining the damage was not himself in default in the matter in respect of which the power was exercised.

(*2*) If any dispute arises touching the amount of any compensation which the committee is required by this Act to pay for injury to any building or land, it shall be settled in such manner as the parties may agree, or, in default of agreement, in the manner provided by the Land Acquisition Act, 1870, sections 3, 8 to 42, 51 to 53, and 56 to 59, so far as they can be made applicable.

X of 1870.

Appeals against certain orders of committee.

112. (*1*) Any person aggrieved by any order made by a committee under the powers vested in it by section 80, 101 or 105 may appeal within thirty days from the date thereof to the Commissioner or to the Deputy Commissioner as the Local Government may prescribe in this behalf; and no such order shall be liable to be called in question otherwise than by such appeal:

Provided that, if the Deputy Commissioner is himself a member of the

committee, the appeal shall lie to the Commissioner or other officer empowered by the Local Government in this behalf.

(*2*) The appellate authority may, for sufficient cause, extend the period hereby allowed for appeal.

(*3*) The order of the appellate authority confirming, setting aside or modifying the order appealed against shall be final:

Provided that the order appealed against shall not be modified or set aside until the appellant and the committee have had reasonable opportunity of being heard.

CHAPTER VII.

Offences Affecting the Public Health, Safety or Convenience.

Depositing or throwing earth or materials or refuse, rubbish or offensive matter on roads or into drains.

113. Whoever, without the permission of the committee or in disregard of its orders, throws or deposits, or permits his servants or members of his household under his control to throw or deposit, earth or materials of any description, or refuse, rubbish or offensive matter of any kind, upon any public street or place, or into any public sewer or drain or any drain communicating therewith, shall be punishable with fine which may extend to twenty rupees.

Throwing corpse or carcass into river, &c.

114. Whoever throws or causes to be thrown any corpse or carcass or any part thereof into any river, stream, well, lake, canal, tank or any other such place shall be punishable with fine which may extend to twenty rupees.

Discharging sewage.

115. Whoever, without the permission of the committee, causes or allows the water of any sink, sewer or cesspool, or any other offensive matter, to flow, drain or be put upon any public street or place, or into any sewer or drain not set apart for the purpose, shall be punishable with fine which may extend to twenty rupees.

Non-removal of filth, &c.

116. Whoever, being the owner or occupier of any building or land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any carcass, dirt, dung, bones, ashes, night-soil or filth or any noxious or offensive matter in or upon such building or land, or suffers any such receptacle to be in a filthy or noxious state, or neglects to employ proper means to cleanse and purify the same, shall be punishable with fine which may extend to fifty rupees.

Making or altering drains without authority.

117. Whoever, without the permission of the committee, makes or causes to be made, or alters or causes to be altered, any drain leading into any of the sewers or drains vested in the committee, shall be punishable with fine which may extend to fifty rupees.

Penalty for making or keeping latrines, &c., near any source of water-supply.

118. Whoever makes, without the permission of the committee, or keeps for a longer time than one week after notice to remove issued under section 94, any drain, latrine, urinal, cesspool or other receptacle for filth or refuse within fifty feet of any spring, well, tank, reservoir or other source from which water is or may be derived for public use, shall be punishable with fine which may extend to twenty rupees, and, when a notice has issued, with a further fine not exceeding five rupees for each day during which the offence is continued after the lapse of the period allowed for removal.

Keeping animals in disregard of orders.

119. Whoever keeps any swine, buffaloes, cows, oxen, sheep or goats in disregard of any orders which the committee may give to prevent them from becoming a nuisance, shall be punishable with fine which may extend to twenty rupees, and with a further fine which may extend to five rupees for every day after the first during which the offence is continued.

Feeding animals on deleterious substances.

120. Whoever feeds or allows to be fed any animal, which is kept for dairy purposes or may be used for food, on deleterious substances, filth or refuse of any kind, shall be punishable with fine which may extend to fifty rupees.

Driving vehicles without proper lights.

121. Whoever drives any vehicle after dark in any public street or thoroughfare unless the vehicle is properly supplied with lights or there is sufficient moonlight to render lights unnecessary, shall be punishable with fine which may extend to twenty rupees.

Discharging fire-arms, &c.

122. Whoever discharges fire-arms or lets off fire-works or fire-balloons, or engages in any game, in such a manner as to cause or be likely to cause danger to persons passing by or dwelling or working in the neighbourhood, or risk of injury to property, shall be punishable with fine which may extend to twenty rupees.

Suffering dogs to be at large.

123. Whoever, being the owner or person in charge of any dog which is likely to annoy or intimidate passengers, neglects to restrain it so that it shall not be at large without a muzzle in any public street or place, shall be punishable with fine which may extend to twenty rupees.

Altering, obstructing or encroaching upon streets, &c.

124. Whoever, without the permission of the committee, alters, obstructs or encroaches upon any public street, thoroughfare, sewer, drain or watercourse, or displaces, takes up or alters the pavement or other materials or the fences or posts of any public street, place or thoroughfare, or deposits building-materials or makes any hole or excavation on or in any public street or thoroughfare, shall be punishable with fine which may extend to fifty rupees.

Quarrying blasting, cutting

125. Whoever quarries, blasts, cuts timber or carries on building-operations in such a manner as to cause, or be likely to cause, danger to persons

timber or building.

passing by or dwelling or working in the neighbourhood, shall be punishable with fine which may extend to fifty rupees.

Penalty on exposure of infected persons and things.

126. Any person who—

(1) while suffering from any dangerous infectious disorder wilfully exposes himself without proper precautions against spreading the said disorder in any street, public place, shop or public conveyance or enters any public conveyance without previously notifying to the owner, conductor or driver thereof that he is so suffering; or,

(2) being in charge of any person so suffering, so exposes the sufferer; or,

(3) gives, lends, sells, transmits or exposes, without previous disinfection, any bedding, clothing, rags or other things which have been exposed to infection from any such disorder,

shall be liable to a penalty not exceeding fifty rupees; and a person who, while suffering from any such disorder, enters any public conveyance without previously notifying to the owner or driver that he is so suffering, shall in addition be ordered by the Court to pay the owner and driver the amount of any loss and expense they may incur in carrying into effect any measures requisite for disinfection of the conveyance:

Provided that no proceedings under this section shall be taken against persons transmitting with proper precautions any bedding, clothing, rags or other things for the purpose of having the same disinfected.

Penalty on failing to provide for disinfection of public conveyance.

127. Every owner or driver of a public conveyance shall immediately provide for the disinfection of the conveyance after it has to his knowledge conveyed any person suffering from a dangerous infectious disorder, and if he fails to do so he shall be liable to a penalty not exceeding fifty rupees; but no such owner or driver shall be required to convey any person so suffering until he has been paid a sum sufficient to cover any loss or expense incurred by him in carrying into effect the provisions of this section.

Picketing animals and collecting carts.

128. Whoever, contrary to the orders of the committee, pickets animals or collects carts on any public ground, or uses any such ground as a halting-place for vehicles or animals of any description or as a place of encampment, or causes or permits animals to stray, shall be punishable with fine which may extend to twenty rupees.

Keeping corpses or carrying corpses by prohibited routes or so as to cause annoyance.

129. Whoever, without the permission of the committee, keeps a corpse or causes it to be kept in or on any building or land when seventy-two hours after death have elapsed, or carries a corpse along a route prohibited by the committee or in a manner likely to cause annoyance to the public, shall be punishable with fine which may extend to ten rupees.

Destroying direction-posts, lamp-posts, &c.

130. Whoever, in any public place, without being authorized by the committee, defaces or disturbs any direction-post or lamp-post or fence, or injures any tree or extinguishes any light, shall be punishable with fine which may extend to ten rupees.

Penalty for disobedience to orders of committee under last chapter.

131. Whoever disobeys any lawful directions given by the committee by public notice under the powers conferred upon it by the last preceding chapter, or any written notice lawfully issued by it under the powers so conferred, or fails to comply with the conditions subject to which any permission was given by the committee to him under those powers, shall, if the disobedience or omission is not an offence punishable under any other section, be punishable with fine which may extend to fifty rupees, and, in the case of a continuing breach, with a further fine which may extend to five rupees for every day after the first during which the breach continues:

Provided that, when the notice fixes a time within which a certain act is to be done and no time is specified in this Act, it shall rest with the Magistrate to determine whether the time so fixed was a reasonable time within the meaning of this Act.

Prosecution to be suspended in certain cases.

132. Any prosecution for an offence under section 80, or section 105, or under section 131, when the order which has been disobeyed is appealable, shall be suspended, when the Magistrate learns that an appeal has been instituted, pending the decision of the appeal; and, if the order is set aside on appeal, disobedience thereto shall not be deemed an offence against those sections.

CHAPTER VIII.

CONTROL.

Control by Commissioner and Deputy Commissioner.

133. The Commissioner or the Deputy Commissioner may—

(*a*) enter on and inspect, or cause to be entered on and inspected, any immoveable property situate within the limits of his division or district respectively and occupied by any municipal committee or joint committee, or any work which is in progress within those limits under the direction of any such committee or joint committee;

(*b*) call for and inspect any book or document in the possession or under the control of any such committee or joint committee having authority within those limits;

(*c*) require any such committee or joint committee to furnish such statements, accounts, reports and copies of documents relating to the

proceedings or duties of the committee or joint committee, as he may think fit to call for; and,

(*d*) record in writing, for the consideration of any such committee or joint committee, any observations he may think proper in regard to the proceedings or duties of the committee or joint committee:

Provided that,—

(*1*) when the Deputy Commissioner is a member of a committee or joint committee, he shall not exercise, in respect of that committee or joint committee, the powers conferred upon him by this section; and

(*2*) in any of the municipalities of Rangoon, Maulmain, Akyab and Bassein, and any other municipalities to which the Local Government may extend this clause, the said powers shall be exercised by the Local Government and not by any authority mentioned in the foregoing part of this section.

Power to suspend action under Act.

134. (*1*) The Commissioner or the Deputy Commissioner may, by order in writing, suspend within the limits of the division or district (as the case may be) the execution of any resolution or order of a municipal committee or joint committee, or prohibit the doing within those limits of any act which is about to be done, or is being done, in pursuance of or under cover of this Act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the public or to any class or body of persons.

(*2*) When a Commissioner or Deputy Commissioner makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, and of any representations regarding it submitted to him by the municipal committee, to the Local Government, which may thereupon rescind the order or direct that it continue in force with or without modification permanently or for such period as it thinks fit.

Extraordinary powers of Deputy Commissioner in case of emergency.

135. (*1*) In cases of emergency the Deputy Commissioner may provide for the execution of any work, or the doing of any act, which a municipal committee is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the committee.

(*2*) If the expense is not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or as much thereof as is, from time to time,

possible, from the balance in priority to any or all other charges against the same.

(*3*) The Deputy Commissioner shall forthwith report to the Commissioner every case in which he uses the powers conferred upon him by this section.

Powers of Local Government in case of default of committee.

136. (*1*) If at any time it appears to the Local Government that a municipal committee has made default in performing any duty imposed on it by or under this or any other Act for the time being in force, the Local Government may, by order in writing, fix a period for the performance of that duty.

(*2*) If that duty is not performed within the period so fixed, the Local Government may appoint the Deputy Commissioner to perform it, and may direct that the expense of performing it shall be paid, within such time as it may fix, to the Deputy Commissioner by the committee.

(*3*) If the expense is not so paid, the Deputy Commissioner, with the previous sanction of the Local Government, may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is from time to time possible, from the balance in priority to any or all other charges against the same.

Power of Local Government to supersede committee in case of incompetency, persistent default or excess or abuse of powers.

137. (*1*) If a municipal committee is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act for the time being in force, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor General in Council, by an order published, with the reasons for making it, in the local official Gazette, declare the committee to be incompetent or in default or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

(*2*) When a committee is so superseded the following consequences shall ensue:—

(*a*) All members of the committee shall, as from the date of the order, vacate their offices as such members.

(*b*) All powers and duties of the committee may, during the period of supersession, be exercised and performed by such person or persons as the Local Government appoints in that behalf.

(*c*) All property vested in the committee shall, during the period of supersession, vest in the Local Government.

(*3*) On the expiration of the period of supersession specified in the order the committee shall be reconstituted, and the persons who vacated their offices under clause (*a*) shall not be deemed disqualified from being members.

Disputes.

138. (*1*) If any dispute, for the decision of which this Act does not other-

wise provide, arises between two or more committees constitued under this Act, or between any such committee and a cantonment authority, the matter shall be referred—

(*a*) to the Deputy Commissioner if the local authorities concerned are in the same district;

(*b*) to the Commissioner or Commissioners of the division or divisions if the local authorities concerned are in different districts; and,

(*c*) to the Local Government if the local authorities concerned are in different divisions and the Commissioners of those divisions cannot agree.

(*2*) The decision of the authority to which any dispute is referred under this section shall be final.

(*3*) If in the case mentioned in clause (*a*) the Deputy Commissioner is a member of one of the committees concerned, his functions under this section shall be discharged by the Commissioner.

(*4*) "Local authority" in this section means a municipal committee or cantonment authority.

Annual reports and statements.

139. (*1*) A municipal committee shall, at the close of each year or of such other period as may, from time to time, be fixed by the Local Government in this behalf, submit to the Local Government a statement of its receipts and disbursements, in such form as the Local Government may prescribe, and a general report of its proceedings during that period:

Provided that separate accounts shall be submitted of—

(*a*) all receipts of the water-tax, lighting-tax and scavenging-tax, and of all expenditure on the purposes for which those taxes are levied, respectively; and

(*b*) all income under the heads mentioned in section 62, and all expenditure on educational purposes.

(*2*) Accounts submitted under this section shall be examined or audited in such manner as the Local Government prescribes.

Estimates of receipts and expenditure.

140. (*1*) A municipal committee shall submit, before such date in each year as may be directed by the Local Government, for the sanction of such authority as the Local Government may appoint in this behalf, an estimate of its probable receipts for the financial year next following, with proposals for its expenditure, and may from time to time submit, in like manner, further estimates or proposals amending the same.

(*2*) No expenditure shall be incurred by the committee unless it is provided for in a proposal sanctioned under this section.

(*3*) An abstract of the annual estimate and proposals submitted and sanctioned as required by this section shall be published in such manner as the Local Government directs.

Sanction to works.

141. (*1*) No new work, the estimated cost of which exceeds five hundred rupees, shall be begun by a municipal committee, nor shall any contract be entered into by it in respect of any such work, until a plan and estimate thereof have been approved by the committee at a meeting.

(*2*) If the estimated cost of any such new work has not been specifically provided for in proposals submitted and sanctioned in manner mentioned in section 140, or exceeds—

twenty thousand rupees in the case of the municipalities of Rangoon; Maulmain, Bassein and Akyab, or

one-tenth of the estimated annual income of the municipal fund in the case of any other municipality,

it shall not be begun, nor shall any contract be entered into in respect of it, until the plan and estimate have been submitted to and approved by the Local Government, or by an officer empowered by the Local Government in this behalf.

Powers of Commissioner.

142. In all matters connected with the administration of this Act, a Commissioner shall have and exercise the same authority and control over a Deputy Commissioner subordinate to him as he has and exercises over the Deputy Commissioner in the general and revenue administration.

Additional power of Local Government to frame forms and make rules.

143. The Local Government may frame forms for any proceeding of a municipal committee for which it considers that a form should be provided, and may, in addition to any other powers to make rules conferred by this Act, make rules consistent with this Act—

(*a*) as to the intermediate office or offices, if any, through which correspondence between municipal committees and the Local Government or officers of that Government and representations addressed to the Local Government under this Act shall pass;

(*b*) as to the preparation of estimates of receipts and expenditure of committees, and as to the conditions subject to which such estimates may be sanctioned;

(*c*) as to the returns, statements and reports to be submitted by committees; and

(*d*) generally for the guidance of committees and public officers in all matters connected with the carrying out of this Act.

CHAPTER IX.

SUPPLEMENTAL.

Criminal Procedure.

Powers and duties of police in respect of offences against Act and rules, and assistance to municipal authorities.

144. (*1*) Every police-officer employed in a municipality shall give immediate information to the committee of any offence committed against this Act or the rules made thereunder, and shall be bound to assist all members, officers and servants of the committee in the exercise of their lawful authority.

(*2*) Any such police-officer may arrest any person committing in his view any offence against this Act or the rules made thereunder—

(*a*) if the name and address of the person are unknown to him, or,

(*b*) if the person declines to give his name and address, or if there is reason to doubt the accuracy of the name and address if given.

(*3*) A person arrested under this section may be detained until his name and address are correctly ascertained:

Provided that no person so arrested shall be detained longer than is necessary for bringing him before a Magistrate unless the order of a Magistrate for his detention is obtained.

Prosecutions.

145. Prosecutions for offences against this Act or the rules made under it shall not be instituted except by order of or with the approval of the municipal committee.

Member not to be deemed interested in prosecution.

146. A Judge or Magistrate shall not be deemed to be a party to, or personally interested in, any such prosecution within the meaning of section 555 of the Code of Criminal Procedure merely because he is a member of the committee by the order or with the approval of which it has been instituted. X of 1882.

Saving of prosecutions under other laws.

147. Nothing in this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or the rules made under it:

Provided that a person shall not be punished twice for the same offence.

Rules.

Procedure for making rules under section 7, 48, 106 or 143.

148. (*1*) The authority empowered to make rules under section 7, 48, 106 or 143 shall, before making them, publish, in such manner as may in its opinion be sufficient for giving information to persons interested, a draft of the proposed rules, together with a notice specifying a date at or after which the draft will be taken into consideration; and shall, before making the rules,

receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(*2*) Every rule made under any of those sections shall be published in the local official Gazette in English and in such other language or languages as the Local Government may direct; and such publication shall be conclusive evidence that the rule has been made as required by this section.

Continuance of existing rules.

149. (*1*) The Local Government may, by notification in the official Gazette, direct that any rules made under the Lower Burma Municipal Act, 1874, and in force in any local area being, or comprised in, a municipality constituted under this Act at the time the municipal committee for that municipality comes into existence under section 13, shall, so far as they are consistent with this Act and within the powers conferred thereby, be deemed to have been made under this Act, and shall continue in force until repealed by new rules so made.

VII of 1874.

(*2*) The authority empowered to make such new rules shall, as soon as may be, make them, and take such action as may be requisite for bringing them into force.

Recovery of Money.

Recovery of money.

150. All fees and all rents and other sums due on account of property for the time being vested in or managed by the municipal committee, and all arrears of taxes and other money due for water supplied or otherwise under this Act, may be recovered as if they were arrears of land-revenue.[a]

Notices.

Authentication, service and validity of notices.

151. (*1*) Every notice issued by a committee under this Act or under any rule made thereunder shall be in writing, and shall be sufficiently authenticated by the signature of the president or secretary, and may be served on the person to whom it is addressed, or left at his usual place of abode or business with some adult male member or servant of his family, or, if it cannot be so served, may be posted on some conspicuous part of his place of abode or business.

(*2*) If the place of abode or business of the person to whom the notice is addressed is not within the limits of the municipality, the notice may be served by posting it in a registered cover addressed to his usual place of abode.

(*3*) If the place of abode or business of the owner of any property is not known, every such notice addressed to him as such owner may be served on the occupier.

(*4*) If the place of abode or business of the occupier of any property is not

[a] See Act II of 1876, ss. 45 to 51, *supra*, pp. 116 and 117.

known, every such notice addressed to him as such occupier may be served by posting it on some conspicuous part of the property.

(5) No notice issued by the committee under this Act or under any rule made thereunder shall be invalid for defect of form.

Mode of giving notice to owner or occupier of property.

152. When any notice is, under the provisions of this Act, to be given to, or served on, the owner or occupier of any property and he is unknown, it may be given or served—

(*a*) by delivering a written notice to some person on the property or, if there is no person on the property to whom it can be delivered, by fixing it on some conspicuous part of the property; or

(*b*) by putting into the post a prepaid letter containing a written notice, and addressed by the description of the "owner" or "occupier" of the property (naming it) in respect of which the notice is given, without further name or description.

Publication of public notices.

153. Every public notice given by a committee under this Act or under any rule made thereunder shall be published by proclamation or in such other manner as the Local Government may, by rule, direct.

Alteration of Municipal Limits.

Notification of intention to alter limits of municipality.

154. The Local Government may, by notification published in the official Gazette, and in such other manner as the Local Government may determine, declare its intention—

(*a*) to exclude from a municipality any local area comprised therein and defined in the notification, or,

(*b*) to include within a municipality any local area in the vicinity of the same and defined in the notification:

Provided that, where the local area is a military cantonment or part of a military cantonment, a notification shall not be published under this section in respect of it without the previous consent of the Governor General in Council.

Alteration of limits of municipality.

155. (*1*) Any inhabitant of a municipality or local area in respect of which a notification has been published in the official Gazette under section 154 may, if he objects to the alteration proposed, submit his objection in writing to the Local Government within six weeks from the publication of the notification in the official Gazette, and the Local Government shall take his objection into consideration.

(*2*) When six weeks from the publication of the notification in the official Gazette have expired, and the Local Government has considered the objections

(if any) which have been submitted under sub-section (*1*), the Local Government may, by a notification in the official Gazette, exclude the local area from the municipality or include it therein, as the case may be.

Effect of exclusion of local area from municipality.

156. (*1*) When a local area is excluded from a municipality under section 155—

(*a*) this Act, and all rules, orders, directions and powers made, issued or conferred under this Act, shall cease to apply thereto; and

(*b*) the Local Government shall, after consulting the municipal committee, frame a scheme determining what portion of the balance of the municipal and school funds and other property vested in the municipal committee shall vest in Her Majesty for the benefit of the local area, and in what manner the liabilities of the committee shall be apportioned between the committee and the Secretary of State for India in Council; and, on the publication of the scheme in the local official Gazette, the property and liabilities shall vest and be apportioned accordingly.

(*2*) All property vested in Her Majesty under sub-section (*1*) shall be applied under the orders of the Local Government to discharging the liabilities imposed on the Secretary of State for India in Council under that sub-section, or for the promotion of the safety, health, welfare or convenience of the inhabitants of the local area.

Effect of including local area in municipality.

157. When a local area is included in a municipality under section 155, this Act, and except as the Local Government may otherwise, by notification in the official Gazette, direct, all rules, orders, directions and powers made, issued or conferred under this Act and in force throughout the whole municipality at the time the local area is so included, shall apply to the local area.

Powers to except Municipalities from Provisions of Act.

Power to except municipality from provisions of Act unsuited thereto.

158. (*1*) If the circumstances of any municipality are such that, in the opinion of the Local Government, any of the provisions of this Act are unsuited thereto, the Local Government may, by notification in the official Gazette, except the municipality from the operation of those provisions; and thereupon those provisions shall not apply to the municipality until again applied thereto by like notification.

(*2*) While the exception remains in force, the Local Government may make rules for the guidance of the committee and public officers in respect of the matters excepted from the operation of the said provisions.

Miscellaneous.

Saving of Act XI of 1879.

159. Nothing in this Act shall affect the Local Authorities Loans Act, 1879. XI of 1879.

Powers of Governor General in Council and of Local Government exercisable from time to time.

160. All powers conferred by this Act on the Governor General in Council or on the Local Government may be exercised from time to time as occasion requires.

Decision of questions as to whether persons are "inhabitants".

161. If any question arises whether a person or persons of a specified class is or are an inhabitant or inhabitants of a local area within the meaning of this Act, the decision thereon of the Local Government shall be conclusive.

THE RANGOON WATER-WORKS ACT, 1884.

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ACT No. XIX OF 1884.

Received the Governor General's assent on the 10th October, 1884.

An Act to confer powers and impose duties on the Municipal Committee for the Town of Rangoon in respect to the construction and maintenance of Water-works and the supply of Water in that Town.

WHEREAS a scheme has been settled and to some extent carried out for the construction and maintenance of water-works and the supply of water to the town of Rangoon by the municipal committee for that town;

And whereas it is necessary for the purposes of the scheme that the Royal Lake at Rangoon, and all existing tanks, cisterns, springs, wells, pumps, reservoirs, conduits, aqueducts, hydrants, stand-pipes and works, and all land, bridges, buildings, engines, works, materials and things connected therewith or appertaining thereto, should vest in, and be under the control of, the municipal committee for that town;

And whereas it is expedient that powers should be conferred and duties imposed upon the said municipal committee with respect to the construction and maintenance of the proposed water-works, and the supply of water to the town of Rangoon, and otherwise in relation thereto, and that all acts already

done by the said municipal committee which could have been lawfully done if this Act had been in force should be validated;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title and commencement.

1. (*1*) This Act may be called the Rangoon Water-works Act, 1884; and

(*2*) It shall come into force on such date as the Chief Commissioner may, by notification in the official Gazette, fix in this behalf[a].

(*3*) All acts done before the passing of this Act which could have been lawfully done if this Act had been in force shall be deemed to have been lawfully done.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "town" means the local area for the time being comprised within the municipal limits of the town of Rangoon:

(*2*) "street" means any street, road, thoroughfare, passage or place over which the public have a right of way; and includes the surface-soil and subsoil of any such street, and the footway and drains of any such street, and any bridge, culvert or causeway forming part of any such street:

(*3*) "owner" includes—

(*a*) the person who is for the time being entitled to the rent of the house or land in respect of which the word is used and who is not liable to pay rent for that house or land to any other person;

(*b*) an agent of that person; and

(*c*) a trustee for that person:

(*4*) "house" includes schools; also factories and other buildings in which persons are employed:

(*5*) "water-works" includes all lakes, streams, tanks, cisterns, springs, wells, pumps, reservoirs, conduits, aqueducts, hydrants, stand-pipes and works, and all land, bridges, buildings, engines, works, materials and things for supplying, or used for supplying, water under this Act to the town of Rangoon:

(*6*) "the committee" means the municipal committee for the town of Rangoon:

(*7*) "water-rent" includes any rent, reward or payment to be made to the

[a] The Act came into force on the 14th February, 1885—see Burma Gazette of same date, Pt. I, p. 44.

committee in connection with the supply of water under this Act, but does not include the water-tax leviable under the Burma Municipal Act, 1884;[a] XVII of 1884. and,

(*8*) a "supply of water for domestic purposes" does not include a supply of water for cattle, or for horses, or for washing carriages, where the cattle, horses or carriages are kept for sale or hire or by a common carrier, or a supply for any trade, manufacture or business, or for watering gardens, or for fountains or for any ornamental purpose.

CHAPTER II.

VESTING OF PROPERTY.

Vesting of Royal Lake and cisterns, &c., in committee.

3. There shall vest in, and be under the control of, the committee, freed and discharged of and from all manner of rights, titles, privileges or claims whatsoever of any other person,—

(*a*) the Royal Lake at Rangoon; and

(*b*) all existing tanks, cisterns, springs, wells, pumps, reservoirs, conduits, aqueducts, hydrants, stand-pipes and works used or intended to be used for supplying water to the public in the town, and all land, bridges, buildings, engines, works, materials and things connected therewith, or appertaining thereto:

Provided as follows:—

(*1*) any person may at any time, subject to such rules as the committee make in this behalf, row, sail or fish on or in the waters of the Royal Lake;

(*2*) nothing in this section shall affect the land adjacent to the Royal Lake and known as the Dalhousie Park, but that land shall be preserved as a public park for the use of the public.

CHAPTER III.

CONSTRUCTION AND MAINTENANCE OF WATER-WORKS.

Duty of committee to construct works for

4. Subject to rules to be made under this Act by the Chief Commissioner, the committee shall cause such mains and pipes to be laid, and such water-works to be constructed, as may be necessary for the supply of pure and

[a] See s. 42 of Act XVII of 1884, *supra*, p 245.

wholesome water sufficient for the use of the inhabitants for domestic purposes in all parts of the town : Supply of water.

Provided that the Chief Commissioner may, by order in writing, from time to time exempt any part of the town from the provisions of this section, and cancel any such exemption.

5. The committee shall cause such stand-pipes or pumps to be erected, at such intervals as the Chief Commissioner, by rules made under this Act, prescribes, in all the chief streets in those parts of the town in which mains or pipes have been laid under the last foregoing section. Duty of committee to erect stand-pipes.

6. The committee may, for the purpose of constructing or maintaining any water-works for the supply of water to the town, enter upon any land and take levels of the same, and set out such parts thereof as they think necessary, and dig and break up the soil of the land : Power for committee to execute works.

Provided that, in the exercise of these powers, the committee shall do as little damage as may be, and shall make full compensation to all persons interested for all damage sustained by them through the exercise of these powers, and the amount of such compensation shall be determined as nearly as may be in accordance with the provisions of the Land Acquisition Act, 1870. X of 1870.

7. The committee may open and break up the soil and pavement of the streets, and lay down and place pipes, conduits and other works and engines, and from time to time repair, alter or remove the same, and do all other acts which the committee from time to time deem necessary for supplying water to the town. Power for committee to break up streets.

CHAPTER IV.

Supply of Water.

A.—Supply of Water for Domestic Purposes to Occupiers of Houses or Lands.

8. (*1*) Every occupier of a house or land situate in a part of the town not exempted under the proviso to section 4 shall be entitled to have free of further charge, through the communication-pipes constructed as hereinafter provided, a supply to the house or land of fifteen hundred gallons of pure and wholesome water for domestic purposes for every rupee paid to the committee for water-tax on account of the house or land. Right of occupier to certain supply of water for domestic purposes.

(*2*) If the committee have reason to believe that the occupier of any house or land consumes more water than he is entitled to have free of further charge under this section, they may provide a water-metre at their own expense, and attach it to such part of the communication-pipes as they think fit.

(*3*) If the occupier consumes any water over and above the quantity to which he is entitled free of further charge under this section, he shall pay for it at the rate of one rupee for every fifteen hundred gallons, or part of fifteen hundred gallons.

Right of occupier paying water-tax to have water brought into his house or land.

9. Every occupier of a house or land who is entitled to a supply of water free of further charge under the last foregoing section shall, subject to the provisions of this Act, be entitled to have communication-pipes laid down from the service-pipes of the committee, for bringing into his house or land a reasonable supply of water:

Provided that the committee may cut off the supply of water to any house or land while the house or land is unoccupied.

Construction of communication-pipes.

10. The communication-pipes leading the water from the service-pipes of the committee into the house or land of any occupier, and the pipes and works within the house connected therewith, shall be of such character, dimensions and material as the committee fix and approve, and shall be constructed at the expense of the person requiring them.

Inspection of works, pipes and fittings before connection with service-pipes.

11. (*1*) Before a connection for the supply of water from the service-pipes of the committee to any house or land is sanctioned by the committee, the committee shall cause all the works, pipes and fittings within the house or land to be inspected by such officer as the committee appoint in this behalf.

(*2*) The cost of an inspection under this section shall be payable in advance by the person applying for the connection, at such rate as the committee, at a special meeting, from time to time, direct.

(*3*) Until the officer has certified that the works, pipes and fittings have been executed and put up in a satisfactory manner, a connection with the committee's service-pipes shall not be permitted.

Connection with service-pipes to be executed only by an officer of the committee.

12. (*1*) The connection with the service-pipes of the committee, and the laying of communication-pipes under any street, shall be executed by an officer of the committee authorized in that behalf.

(*2*) The expense of making the connection shall be payable in advance by the person applying for the same, at such rate as the committee, at a special meeting, from time to time, direct.

Power for officer of committee to enter premises.

13. (*1*) The officer authorized in that behalf by the committee may, between the hours of seven in the forenoon and five in the afternoon, enter into or on any house or land supplied with water as aforesaid in order to examine all pipes, works and fittings connected with the supply of water, and to ascertain if there is any waste or misuse of the water.

(*2*) If any such officer at any such time is refused admittance into any such house or land for the purposes aforesaid, or is prevented from making such

examination as aforesaid, the committee may forthwith turn off or cut off the water from the house or land.

Power for committee to turn off water when pipes are out of repair.

14. If any pipes, works or fittings connected with the supply of water to any house or land are at any time found, on examination by any officer of the committee authorized in that behalf, to be out of repair to such an extent as to cause any waste of water, the committee may, after the expiry of twenty-four hours from the service of notice in writing to this effect, cause the water to be turned off or cut off from the house or land, and may recover the expense incurred for turning off or cutting off the water from the occupier of the house or land.

B.—Supply for gratuitous use in Stand-pipes.

Duty of committee to supply water for gratuitous use in stand-pipes.

15. The committee shall cause a sufficient quantity of pure and wholesome water to be supplied for the gratuitous use of the inhabitants of the town for domestic purposes in the stand-pipes to be erected by the committee under section 5.

C.—Supply of Water for extinguishing Fires and cleansing Sewers and Streets.

Duty of committee to fix fire-plugs in mains.

16. The committee shall fix and renew and keep in effective order such fire-plugs in such of the mains and other pipes laid by them, and shall deposit keys of the fire-plugs at such places, as the Chief Commissioner, by rules made under this Act, directs.

Duty of committee to supply water for cleansing sewers and drains.

17. In all the mains and pipes to which any fire-plug is fixed, the committee shall provide and keep constantly laid on, unless prevented by unusual drought or other unavoidable accident, a sufficient supply of water for use with fire-engines, for cleansing the sewers and drains, and for cleansing and watering the streets.

D.—Supply of Water for other than Domestic Purposes.

Supply for other than domestic purposes.

18. (*1*) The committee may, from time to time, supply any person with water by measurement for other than domestic purposes, for such remuneration and on such terms and conditions as shall be agreed on between the committee and the person:

Provided that—

(*a*) notwithstanding any such agreement, a person shall not be entitled to such a supply whenever and as long as the committee are of opinion that the supply would interfere with the proper supply of water for domestic purposes under this Act; and

(*b*) the committee shall not be liable, in the absence of express stipulation under any such agreement, to any forfeiture, penalty or damages for not supplying the water if the want of the supply arises from unusual drought or other unavoidable cause or accident.

(*2*) When any such agreement has been entered into by the committee with any person, the committee may, subject to such charges or rates as may have been fixed by the committee at a special meeting, lay down, or allow to be laid down, the necessary communication-pipes and works, of such dimensions and character as may be fixed by the committee, for supplying the person with water in accordance with the terms of the agreement.

E.—Pressure of Water supplied.

Pressure at which water must be kept.

19. From such a day as the Chief Commissioner, by notification in the local official Gazette, directs in this behalf, the supply of water in the mains and pipes which the committee are required to lay under this Act shall be laid on at such pressure as the Chief Commissioner, by rules made under this Act, prescribes.

CHAPTER V.

Reciprocal Rights of Owners and Occupiers to Supply of Water to Houses.

Power for occupier of house to require owner to provide works for water-supply.

20. (*1*) Any occupier holding direct from the owner of a house may, by notice in writing signed by him, require the owner of the house to construct all such works as may be necessary for bringing into the house a supply of water for domestic purposes.

(*2*) Every notice under this section shall contain an undertaking on the part of the occupier to pay interest at the rate of one per centum per mensem, calculated from the date of the completion of the works, on the cost of the works during the residue of his term of occupation.

(*3*) If the house, or the land attached thereto, does not abut upon a street in which there is a supply-main, the occupier shall undertake to pay the cost of connecting the house with the nearest supply-main.

Power for occupier to make works in default of owner.

21. (*1*) If the owner does not, within three months from the service of the notice mentioned in the last foregoing section, cause such works as aforesaid to be completed, the occupier may cause the works to be completed, and may by way of additional remedy deduct the cost of the works from the rent payable by him in respect of the house:

Provided that the occupier shall not recover on account of the cost—

(*a*) a sum exceeding the amount of six months' rent; or,

(*b*) where the house or the land attached thereto does not abut upon a street in which there is a supply-main, the cost of connecting the house with a supply-main.

(*2*) The deduction which an occupier is authorized to make under this section shall be made by six equal monthly instalments.

(*3*) Interest on each instalment shall be payable to the owner by the occupier at the rate of one per centum per mensem from the time when it is deducted.

What works are sufficient for supply of water to house.

22. The works shall not be deemed sufficient for bringing into the house a supply of water for domestic purposes unless the following taps, with the necessary works in connection therewith, are provided, namely:—

(*a*) two taps in the house;

(*b*) one tap in the cookroom of, or other building attached to, the house; and

(*c*) one tap in or near the stables or other out-houses belonging to the house:

Provided that, if the annual rent of the house with the buildings and land attached thereto is less than three hundred rupees, it shall be sufficient to provide one tap only, together with the necessary works in connection therewith, within the house and the buildings and land attached thereto.

Estimate and specification of works to be sent.

23. Works for introducing a supply of water to a house shall not be commenced by the owner without sending a specification and estimate of the cost thereof to the occupier, nor by the occupier without sending such a specification and estimate to the owner.

Power to refer to committee.

24. If there is any difference between the owner and the occupier respecting the cost or the sufficiency of the proposed works, either the owner or the occupier may refer the difference to the committee, and the written award of any officer authorized by the committee in this behalf shall be final and binding on the owner and the occupier.

Fee on reference.

25. There shall be payable by the person making a reference to the committee under the last foregoing section a fee (not exceeding ten rupees) at the rate of two rupees for every hundred rupees of the monthly rent of the house in respect of the water-supply to which the difference has arisen.

Duty of owner to keep works in repair.

26. (*1*) The owner of any house or land shall keep all works connected with the supply of water to the house or land in substantial repair.

(*2*) If the owner fails to put any such works in substantial repair after

being requested by the occupier to do so, the occupier may cause the necessary repairs to be made, and may by way of additional remedy deduct the cost of the repairs from the rent payable by him in respect of the house or land.

Power for owner to recover sums payable by occupier.

27. Any owner to whom any sum is payable under section 20 or section 21 may recover the sum from the person liable to pay it as if it were rent payable by that person for the house in respect of which the expenses have been incurred.

Saving of contracts between owners and occupiers.

28. Nothing in this chapter shall affect any contract in writing between the owner and occupier of any house or land.

CHAPTER VI.

RULES.

Power for Chief Commissioner to make rules.

92. The Chief Commissioner may from time to time make rules consistent with this Act—

(*a*) to prescribe the size and nature of the mains and pipes to be laid and the water-works to be constructed by the committee for the supply of water under this Act;

(*b*) to prescribe the size and nature of the stand-pipes or pumps to be erected by the committee under this Act, and the intervals at which they must be erected;

(*c*) to prescribe the mains or pipes in which fire-plugs are to be fixed, and the places at which keys of the fire-plugs are to be deposited, by the committee under this Act;

(*d*) to prescribe the pressure at which the water supplied by the committee under this Act is to be laid on either generally or at specific times; and

(*e*) generally to define and regulate the powers and duties of the committee under this Act.

Power for committee to make rules.

30. (*1*) The committee may from time to time, at a special meeting, make rules consistent with this Act—

(*a*) for regulating rowing, sailing and fishing on or in the Royal Lake, and

(*b*) for preventing the waste or misuse of water supplied by them, and for defining the nature of the pipes, casks, cisterns and other apparatus to be used by every person supplied by them with water.

(*2*) In making a rule under this section the committee may direct that a breach of it shall be punishable with fine which may extend to fifty rupees,

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and, when the breach is a continuing one, with a further fine of five rupees for every day after the first during which the breach continues.

(*3*) If any person, having or requiring a supply of water from the committee, fails to comply with any rules made under clause (*b*) of this section, the committee may refuse to supply water to him, and may cut off the water supplied to him, unless and until the rules are complied with:

Provided that the stopping or cutting off the supply of water shall not relieve any person from any penalties or liabilities which he has otherwise incurred.

Procedure for making rules.

31. (*1*) The Chief Commissioner or committee shall, before making any rules under section 29 or section 30, publish a draft of the proposed rules for the information of persons interested.

(*2*) The publication shall be made,—

(*a*) in the case of rules under section 29, in such manner as, in the opinion of the Chief Commissioner, is sufficient; and

(*b*) in the case of rules under section 30, in such manner as the Chief Commissioner, by order, directs.

(*3*) A notice shall be published with the draft rules specifying a date at or after which the draft shall be taken into consideration.

(*4*) The Chief Commissioner or committee shall, before making the rules, receive and consider any objection or suggestion which is made by any person with respect to the draft before the date so specified.

Publication of rules.

32. Every rule made under section 29 or section 30 shall be published in the local official Gazette in English and in such other language or languages as the Chief Commissioner directs, and such publication shall be conclusive evidence that the rule has been made as required by section 31.

CHAPTER VII.

Arrears and Offences.

Arrears of water-rents.

33. All arrears of water-rents under this Act may be recovered, on application to such revenue-officer as the Local Government may appoint in this behalf, as if they were arrears of land-revenue.[a]

Power for committee to turn off water on neglect to pay water-tax or water rent.

34. If any person supplied with water neglects to pay—

XVII of 1884. (*a*) the water-tax leviable under the Burma Municipal Act, 1884,[b] or,

(*b*) any water-rent payable by him to the committee,

[a] See Act II of 1876, ss. 45 to 51, *supra*, pp 116 and 117.
[b] See s. 42 of Act XVII of 1884, *supra*, p. 245.

the committee may turn off or cut off the water from the house or land in respect of which the water-tax or water-rent is payable, by cutting off the pipe to the house or land, or by such other means as the committee think fit, and may recover in manner provided by the last foregoing section the expense of turning off or cutting off the water from the person:

Provided that the stopping or cutting off the supply of water shall not relieve any person from any penalties or liabilities which he has otherwise incurred.

Penalty for obstructing, diverting or wasting water.

35. If any person unlawfully obstructs the flow of, flushes, draws off, diverts or takes, water from any water-works belonging to, or under the management or control of, the committee, or from any water or streams by which these water-works are supplied, or wastes any water supplied to him under this Act, he shall be punished with fine which may extend to one hundred rupees.

Penalty for unauthorized application of water.

36. If any person—

(*a*) uses for other than domestic purposes any water supplied under this Act for domestic purposes; or,

(*b*) where water is supplied under section 18 for a specified purpose, uses that water for any other purpose,

he shall be punished with fine which may extend to fifty rupees, without prejudice to the right of the committee to recover from him the price of the water misused.

Penalties for causing the water of the committee to be fouled, &c.

37. (*1*) If any person—

(*a*) bathes in, at or upon any water-works, or washes, throws or causes to enter therein any dog or other animal, or

(*b*) throws any rubbish, dirt, filth or other noisome thing into any water-works, or washes or cleanses therein any cloth, wool, leather or skin of any animal, or any clothes or other thing, or

(*c*) causes the water of any sink, sewer or drain, or of any steam-engine or boiler, or any other filthy water belonging to him or under his control, to turn or be brought into any water-works, or does any other act whereby the water in any water-works is fouled, or likely to be fouled,

he shall, for every such offence, be punished with fine which may extend to one hundred rupees, and to ten rupees in addition for each day (if more than one) during which the offence continues.

Prosecutions.

38. Prosecutions under this Act or the rules made under this Act may be instituted by the committee or any person authorized by them in this behalf, and not otherwise.

ACT No. I OF 1885.

(*Received the Governor General's assent on the 2nd January, 1885.*)

An Act to amend the Burma Steam-boilers and Prime-movers Act, 1882.

WHEREAS it is expedient to amend the Burma Steam-boilers and Prime-movers Act, 1882[a]; It is hereby enacted as follows :— XVIII of 1882.

1. This Act may be called the Burma Steam-boilers and Prime-movers Act, 1885; and it shall come into force at once. Short title and commencement.

2. In section 4 of the Burma Steam-boilers and Prime-movers Act, 1882, after the words "first or second class" the words "or as engine-drivers" shall be added. Amendment of section 4 of Act XVIII of 1882.

3. In section 5, sub-section (*2*), section 8, clause (*b*), and section 11, clause (*b*), of the said Act, after the word "engineer" the words "or in the case of a boiler or prime-mover attached to an engine of not more than twenty horse-power of an engineer or engine-driver" shall be inserted. Amendment of sections 5, 8 and 11 of same Act.

ACT No. XIX OF 1888.

(*Received the Governor General's assent on the 21st December, 1888.*)

An Act to amend the Burma Municipal Act, 1884.

WHEREAS it is expedient to amend the Burma Municipal Act, 1884[b]; It is hereby enacted as follows :— XVII of 1884.

1. In section 2 of the Burma Municipal Act, 1884, between the definition of "municipality" and the definition of "inhabitant" the following shall be inserted, namely :— Addition to section 2, Act XVII, 1884.

[See *supra*, p. 232.]

2. For sections 58 and 59 of the said Act the following shall be substituted, namely :— Substitution of new sections for sections 58 and 59, Act XVII 1884.

[See *supra*, p. 249.]

3. Act XI of 1885 (*an Act to correct an error in the Burma Municipal Act, 1884*) is hereby repealed. Repeal of Act XI of 1885.

[a] See *supra*, p. 198. [b] See *supra*, p. 232.

ACT No III of 1889.

(*Received the Governor General's assent on the 22nd February, 1889.*)

An Act to provide a Village-system and amend the law relating to Rural Police in Lower Burma.

Title, extent, commencement and repeal.

WHEREAS it is expedient to provide a village-system and amend the law relating to rural police in Lower Burma; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Lower Burma Village Act, 1889.

(*2*) It extends to the whole of Lower Burma; and

(*3*) This section and sections 14 to 23 (both inclusive) shall come into force at once.

(*4*) The other sections shall not come into force in any part of Lower Burma until the Local Government extends them thereto.

(*5*) Such extension shall be by notification in the Burma Gazette, describing the part of Lower Burma to which the sections are extended and the day on which they are to take effect therein.

(*6*) On and from that day sections 12 to 21 (both inclusive) of the Burma District Cesses and Rural Police Act, 1880[a], shall be repealed as regards that part. II of 1880.

Definition.

2. (*1*) For the purposes of this Act "village" includes—

(*a*) village-lands,

(*b*) rivers passing through or by, and lakes adjacent to, those lands, and

(*c*) a group of villages.

(*2*) The Deputy Commissioner may determine the limits of a village for the purposes of this Act.

Appointment of headman.

3. (*1*) The Deputy Commissioner shall appoint a headman in every village.

(*2*) In appointing a headman the Deputy Commissioner shall have regard, so far as circumstances admit, to any established custom which may exist respecting the right of nomination or succession or otherwise and to claims based thereon.

(*3*) When in any village there are two or more headmen, the Deputy Commissioner shall decide which of them is to be the headman for the purposes of this Act, and, with the previous sanction of the Commissioner, may make rules to define and regulate their relations to each other.

(*4*) The Deputy Commissioner may appoint a rural policeman or more than one such policeman in any village.

[a] See *supra*, p. 155 *et seqq.*

II of 1880.

4. For clause (*a*) of section 9 of the Burma District Cesses and Rural Police Act, 1880,[a] the following shall be substituted, namely :— Substitution of new clause for clause (*a*) of section 9, Act II of 1880.

III of 1889.

"(*a*) the remuneration of the headmen and the maintenance of the rural police appointed under the Lower Burma Village Act, 1889 ;".

X of 1882.

5. For section 45 of the Code of Criminal Procedure, 1882, the following shall be substituted, namely :— Substitution of new section for section 45 of the Code of Criminal Procedure.

"45. (*1*) A headman appointed under the Lower Burma Village Act, 1889, shall forthwith communicate to the nearest Magistrate, or to the officer in charge of the nearest police-station or military post, whichever is the nearer, any information which he may obtain respecting— Headman bound to report certain matters.

(*a*) the permanent or temporary residence of any notorious receiver or vendor of stolen property in his village ;

(*b*) the resort to any place within, or the passage through, his village of any person whom he knows, or reasonably suspects, to be a dacoit, robber, escaped convict or proclaimed offender ;

(*c*) the commission of, or attempt or intention to commit, within his village, any of the following offences, namely :—

(i) murder,

(ii) culpable homicide not amounting to murder,

(iii) dacoity,

(iv) robbery,

XI of 1878.

(v) offence against the Indian Arms Act, 1878, and

(vi) any other offence respecting which the Deputy Commissioner by general or special order, made with the previous sanction of the Commissioner, directs him to communicate information ;

(*d*) the occurrence in his village of any sudden or unnatural death, or of any death under suspicious circumstances.

"(*2*) In sub-section (*1*) 'village' has the meaning assigned to that word in the Lower Burma Village Act, 1889."

6. (*1*) The headman of a village shall be bound— Duties of headman.

(*a*) to investigate every offence respecting which he is required by section 45 of the Code of Criminal Procedure, 1882, to communicate information ;

(*b*) to search for and arrest any person whom he has reason to believe to have been concerned in the commission or attempted commission of

[a] See *supra*, p 154.

any such offence, and to recover, if possible, any property taken by any such person;

(*c*) to arrest any person found lurking within the limits of the village who cannot give a satisfactory account of himself;

(*d*) to forward, as soon as may be, to the nearest police-station or military post, any person arrested by him or made over to his custody, together with any weapon or other article likely to be useful as evidence;

(*e*) to resist any unlawful attack made upon the village;

(*f*) to take such measures and execute such works for the protection of the village and for keeping open the communications between it and adjacent posts as the Deputy Commissioner may direct;

(*g*) on the written order of the Deputy Commissioner, or other Magistrate not below the rank of Myo-ôk, to collect and furnish on payment supplies of food or carriage for troops or police posted in or near, or marching through, the village;

(*h*) on the requisition of any Magistrate not below the rank of Myo-ôk, to furnish labourers for the making or repair of roads, embankments or other public works;

(*i*) to collect or aid in collecting revenue and other money due to the Government from residents of the village or persons holding land therein;

(*j*) to allot unoccupied land within the village for cultivation or house-building up to such limit and on such conditions as the Deputy Commissioner may direct;

(*k*) if so ordered, and in accordance with such rules as may be made in this behalf by the Commissioner with the previous sanction of the Local Government, to register all births and deaths which take place within the village and any other vital statistics which may be prescribed by such rules;

(*l*) to take such measures for the prevention of public nuisances and for the general sanitation of the village as may be prescribed in any rules made in this behalf by the Commissioner with the previous sanction of the Local Government;

(*m*) to supply to the best of his ability any local information which any Magistrate or officer of police may require; and,

(*n*) generally, to assist all officers of the Government in the execution of their public duties.

(*2*) Every rural policeman shall be bound to perform such duties similar to those imposed on a headman by sub-section (*1*) as may be imposed upon him by rules made by the Local Government in this behalf.

Disposal of petty criminal cases by headman.

7. (*1*) If any of the offences mentioned in the next following sub-section is committed in a village, the headman of the village may, on complaint made to him within eight days from the date of the commission of the offence, take cognizance of it and try any person accused thereof.

(*2*) The offences referred to in sub-section (*1*) are the following, namely:—

(*a*) assault;

(*b*) theft when the value of the property stolen does not exceed five rupees;

(*c*) mischief when the mischief causes damage to an amount not exceeding five rupees;

(*d*) criminal trespass; and

(*e*) any other offence which the Local Government may, by notification in the Burma Gazette, declare to be triable by a headman under sub-section (*1*).

(*3*) If the accused is convicted, he may be sentenced to fine not exceeding five rupees or, if the offence was theft or mischief, twice the value of the property stolen or twice the amount of the damage caused, as the case may be, or to confinement for a term not exceeding twenty-four hours in such place as the Deputy Commissioner may appoint in this behalf, or to both.

(*4*) A headman specially empowered by the Local Government in this behalf may, on complaint, try any person accused of theft or mischief when the value of the property stolen or the amount of the damage caused does not exceed fifty rupees, and may, in any case so triable by him, sentence the accused, on conviction, to fine not exceeding fifty rupees, or to confinement for a term not exceeding fifteen days in such place as the Deputy Commissioner may appoint in this behalf, or to both.

(*5*) Proceedings under this section shall be held in the presence of the complainant and the accused.

(*6*) The offence out of which the proceedings have arisen may be compounded at any time before the headman pronounces his decision.

(*7*) The proceedings need not be reduced to writing, but such record shall be kept of the cases decided as the Deputy Commissioner directs.

(*8*) Any fine imposed for an offence referred to in this section may be awarded as compensation to any person injured by the offence.

(*9*) A fee of one rupee may be levied on a complaint under sub-section (*1*) and of two rupees on a complaint under sub-section (*4*).

(*10*) No other fee shall be leviable in any case under this section.

(*11*) If the accused is convicted, the amount of any fee paid in respect of

the complaint shall be recovered from him as if it were a fine imposed under this Act and be repaid to the complainant.

Penalty for neglect of duty or abuse of authority by headman or rural policeman.

8. If a headman or a rural policeman neglects to perform any of the duties imposed upon him by this Act or any rule thereunder, or abuses any of the powers conferred upon him by this Act or any such rule, he shall be liable, by order of the Deputy Commissioner, to pay a fine not exceeding fifty rupees, or to be suspended from office for a period not exceeding six months, or to be dismissed from office.

Obligation on villagers to aid headman and rural policeman.

9. (*1*) Every person residing in a village shall, on the requisition of the headman or of a rural policeman, be bound to assist him in the execution of his public duties.

(*2*) If any such person refuses or neglects to comply with the requisition of the headman or rural policeman, he shall, in the absence of reasonable excuse, the burden of proving which shall lie upon him, be liable, by order of the headman, to fine not exceeding five rupees, or to confinement for a term not exceeding twenty-four hours in such place as the Deputy Commissioner may appoint in this behalf, or to both, or, on conviction by a Magistrate, to fine not exceeding fifty rupees, or to imprisonment for a term not exceeding one month, or to both.

Civil jurisdiction of headman.

10. (*1*) The Local Government may, by notification in the Burma Gazette, invest any headman with the powers of a Civil Court for the trial of suits between persons of whom both or all, as the case may be, reside within his village, and may, by general or special order notified in the Burma Gazette, specify the classes, and the value not exceeding twenty rupees, of the suits which such headman may try.

(*2*) The Local Government may at any time cancel or vary any such notification or order.

(*3*) In any suit tried in exercise of powers conferred under sub-section (*1*), the decision of the headman shall, subject to revision by such authority as the Local Government may appoint in this behalf, be final.

(*4*) Notwithstanding anything in the Code of Civil Procedure, a person shall not be bound to institute a suit in the Court of a headman. XIV of 1882.

(*5*) A fee of ten per centum of the value of the suit shall be paid on its institution in the Court of a headman, and no other fee shall be paid for the issue of processes or otherwise.

Notification of residence of strangers in villages.

11. (*1*) If any person comes into a village of which he is not a resident, he or the person, if any, in whose house he is living shall, within twelve hours of his coming to the village, report to the headman his arrival, his name and occupation, and the name of the place where he last resided.

(*2*) The departure from a village of a person whose arrival has been reported under sub-section (*1*) shall also be reported by the person, if any, in whose house he has been living.

Prohibition of unauthorized settlement of strangers in villages.

12. A person who is not a resident of a village shall not build any house, hut or enclosure, or take up his residence in the village, without the permission of the headman.

Penalty for breach of orders under immediately preceding sections.

13. If a person contravenes the provisions of section 11 or section 12, he shall be punished, on conviction by a Magistrate, with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to fifteen days, or with both.

Fine on villagers accessory to crime.

14. (*1*) The Deputy Commissioner may, with the sanction of the Commissioner, impose fines on all or any residents of a village if after enquiry he has found—

(*a*) that they have colluded with or harboured or failed to take all reasonable means to prevent the escape of any criminal;

(*b*) that they have suppressed or combined to suppress evidence in any criminal case;

(*c*) that stolen property having been tracked to their village, they have failed or neglected to restore the property or to take on the track beyond the limits of their village.

(*2*) In either of the following cases, namely:—

(*a*) when a fine is imposed on the ground stated in clause (*a*) or in clause (*b*) of sub-section (*1*), and the offence of which the criminal is accused, or to which the criminal case relates, is mischief by fire, dacoity, robbery or cattle-theft,

(*b*) when a fine is imposed on the ground stated in clause (*c*) of sub-section (*1*),

a sum not exceeding the amount of any damage caused or the value of the property stolen may be given out of the fine as compensation to the owner of the damaged or stolen property.

Fine on villagers where homicide is committed or attempted.

15. When within any village a person is dangerously or fatally wounded by unlawful attack, or the body is found of a person believed to have been unlawfully killed, the residents of the village shall be deemed to have committed an offence under the last foregoing section unless they can show that they—

(*a*) had not an opportunity of preventing the offence or arresting the offender, or

(*b*) have used all reasonable means to bring the offender to justice.

Power to require

16. (*1*) When the Deputy Commissioner has reason to believe, on the report of a headman or otherwise, that a person residing in any place is

residents to remove from villages.

harbouring, aiding or abetting dacoits, robbers or cattle-thieves, or has taken up his residence in that place for the purpose of such harbouring, aiding or abetting, he may require that person to leave that place and to reside in such other place as the Deputy Commissioner may direct.

(*2*) If a person disobeys a requisition under sub-section (*1*), he shall be punished, on conviction by a Magistrate, with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

Mode of recovering fines.

17. (*1*) A fine imposed under this Act may be recovered as if it were an arrear of land-revenue.[a]

(*2*) A fine imposed under section 14 may, with the previous sanction of the Local Government, be commuted into an annual addition to the capitation-tax payable by the residents of the village or to the land-revenue payable in respect of the village-lands, or, in the case of revenue-free lands, to an annual assessment at such rates and for such term of years as the Local Government may direct.

Provisions with respect to emoluments of headmen and rural policemen.

18. (*1*) The emoluments of a headman or rural policeman shall not be liable to attachment in execution of a decree or order of any Civil Court.

(*2*) An assignment of, or charge on, or an agreement to assign or charge, any such emoluments shall be void.

(*3*) Where the emoluments of a headman consist wholly or in part of a grant of land, the title to the grant shall pass with the office of headman, and the Deputy Commissioner may, upon such terms, if any, as to compensation for improvements or otherwise as he thinks fit, enforce the surrender of the land to the person for the time being holding that office.

Protection to headman or rural policeman in execution of his duty.

19. No complaint against a headman or rural policeman of any act or omission punishable under this Act shall be entertained by any Court unless the prosecution is instituted by order of or under authority from the Deputy Commissioner.

Finality of orders.

20. (*1*) An appeal shall not lie from any order made under this Act.

(*2*) But the Deputy Commissioner may revise any such order made by any officer subordinate to him, and the Commissioner may revise any such order made by the Deputy Commissioner.

(*3*) Save as provided by this section, an order made under this Act shall be final and shall not be liable to be contested by suit or otherwise.

(*4*) The word "order" in this section does not include a decision of a headman in a suit tried in exercise of powers conferred under section 10, sub-section (*1*).

[a] See Act II of 1876, ss. 45 to 51, *supra*, pp. 116 and 117.

Delegation of powers of Deputy Commissioner to Assistant Commissioner.

21. The Local Government may authorize any Assistant Commissioner, by name or by virtue of his office, to exercise in any district or part of a district all or any of the powers of the Deputy Commissioner under this Act.

Power to make rules.

22. (*1*) The Local Government may, subject to the control of the Governor General in Council, make rules consistent with this Act—

(*a*) conferring on rural policemen any powers or privileges which may be exercised or are enjoyed by police-officers under any enactment for the time being in force;

(*b*) prescribing the duties to be performed by rural policemen, including any duties imposed upon police-officers by any enactment for the time being in force;

(*c*) regulating the exercise, enjoyment and performance of those powers, privileges and duties by rural policemen;

(*d*) regulating the emoluments of headmen and rural policemen;

(*e*) prescribing the procedure to be observed by a headman trying a suit in exercise of powers conferred under section 10, sub-section (*1*), the record which he is to make of the suit and the mode in which that record is to be disposed of, the powers which he may exercise as regards the costs of the suit and of any proceeding arising thereout, the manner in which a decree or order made by him may be executed by himself, and the manner, circumstances and conditions in and on which such a decree or order may be sent for execution to, and be executed by, another headman or a Civil Court;

(*f*) for the disposal of fees levied under section 7, sub-section (*9*), and section 10, sub-section (*5*); and,

(*g*) generally, for carrying into effect the purposes of this Act.

(*2*) All such rules shall be published in the Burma Gazette.

Effect of Act.

23. This Act shall take effect notwithstanding anything in any enactment for the time being in force.

THE LOWER BURMA COURTS ACT, 1889.

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ACT No. XI OF 1889.

(*Received the Governor General's assent on the 30th May, 1889.*)

An Act to consolidate and amend the law relating to the Courts, and declare the effect of certain enactments, in Lower Burma.

WHEREAS it is expedient to consolidate and amend the law relating to the Courts, and to declare the effect of certain enactments, in Lower Burma; and

whereas the Secretary of State for India in Council has sanctioned and approved the passing of this Act; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Act may be called the Lower Burma Courts Act, 1889.

(*2*) Save in so far as it applies expressly or by necessary implication to other parts of British India (inclusive of Upper Burma and the Shan States), it extends to Lower Burma only; and

(*3*) It shall come into force at once.

Repeal.

2. (*1*) The enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.

(*2*) Any enactment or document referring to any of the enactments in that schedule touching Courts in Burma, or to any enactment repealed by any of those enactments, or to any enactment repealed by the Burma Courts Act, 1872, shall, so far as may be, be construed as referring to this Act or to the corresponding portion thereof; and

VII of 1872.

(*3*) All rules, orders and appointments made, limits fixed, directions given, powers and jurisdiction conferred, lists, tables and notifications published, and seals, forms, registers, books, accounts, statements and returns prescribed, under any of the said enactments shall, so far as may be, be deemed to have been respectively made, fixed, given, conferred, published and prescribed under this Act.

(*4*) No trial had, decree made, order passed or proceeding taken by any Court before the day on which this Act comes into force shall, if not invalid before that day, become invalid by reason of any repeal effected by this Act.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "Lower Burma" means the territories for the time being comprised in Lower Burma under sub-sections (*1*) and (*2*) of section 2 of the Upper Burma Laws Act, 1886[a]:

XX of 1886.

(*2*) "Shan States" means the territories for the time being notified under sub-section (*3*) of section 8 of the Upper Burma Laws Act, 1886, as Shan States for the purposes of that section and sections 6 and 7 of that Act:

(*3*) "Upper Burma" means the whole of Burma except Lower Burma and the Shan States:

(*4*) "High Court" means the High Court of Judicature at Fort William in Bengal:

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[a] See *infra*, p. 364.

(5) "Judicial Commissioner" means the Judicial Commissioner of Lower Burma:

(6) "Recorder" means the Recorder of Rangoon: and

(7) "Special Court" means the Special Court constituted under this Act.

CHAPTER II.

LAW TO BE ADMINISTERED.

Law to be administered by Courts under this Act.

4. (1) Where, in any suit or other proceeding, it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution,—

the Buddhist law in cases where the parties are Buddhists,

the Muhammadan law in cases where the parties are Muhammadans, and

the Hindu law in cases where the parties are Hindus,

shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished, or is opposed to any custom having the force of law in Lower Burma.

(2) Subject to the provisions of sub-section (1) and of any other enactment for the time being in force, all questions arising in suits before the Recorder shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction.

(3) In cases not provided for by sub-section (1) or sub-section (2), or by any such other enactment as aforesaid, the Court shall act according to justice, equity and good conscience.

CHAPTER III.

THE COURT OF THE JUDICIAL COMMISSIONER AND THE COURTS SUBORDINATE THERETO.

Grades, Location and Control of Civil Courts.

Grades of Civil Courts.

5. Besides the Courts of Small Causes, the Court of the Recorder and the Special Court, and the Courts established under the Arakan Hills Civil Justice Regulation, 1874,[a] there shall be six grades of Civil Courts in Lower Burma, namely:— VIII of 1874.

(a) the Court of the Myo-ôk;

(b) the Courts of the Extra Assistant Commissioner and the Assistant Commissioner;

[a] See *infra*, p. 339.

(*c*) the Court of the Deputy Commissioner;

(*d*) the Court of the Judge of the Town of Maulmain;

(*e*) the Court of the Commissioner; and

(*f*) the Court of the Judicial Commissioner.

Confirmation of existing Civil Courts.

6. All existing Courts of the grades specified in the last foregoing section shall be deemed to have been established under this Act.

Number and local jurisdiction of Civil Courts.

7. The Local Government may, of its own authority, vary the number of Courts of the grade specified in clause (*a*) or (*b*) of section 5, and the local limits of the jurisdiction of any such Court, and, with the previous sanction of the Governor General in Council, the number of Courts of the grade specified in clause (*c*) or (*e*) and the local limits of the jurisdiction of any such Court or of the Court of the Judge of the Town of Maulmain.

Place of sitting and seal of Civil Courts.

8. Every Court of a grade specified in section 5 shall—

(*a*) be held at such place or places as the Local Government directs, or, in the absence of any such direction, at any place within the local limits of the Court's jurisdiction which the presiding officer thinks fit; and

(*b*) use a seal of such form and dimensions as the Local Government prescribes.

Superintendence and control over Civil Courts.

9. (*1*) The general superintendence and control over all Courts of the grades specified in clauses (*a*), (*b*), (*c*), (*d*) and (*e*) of section 5 shall be vested in, and all such Courts shall be subordinate to, the Court of the Judicial Commissioner.

(*2*) Subject to such general superintendence and control of the Court of the Judicial Commissioner, the control over all the Courts in a division which are of the grades specified in clauses (*a*), (*b*) and (*c*) of section 5 shall be vested in, and all such Courts shall be subordinate to, the Court of the Commissioner.

(*3*) Subject as aforesaid and to the control of the Court of the Commissioner, the control over all the Courts in a district which are of the grades specified in clauses (*a*) and (*b*) of section 5 shall be vested in, and all such Courts shall be subordinate to, the Court of the Deputy Commissioner.

Ordinary Civil Jurisdiction.

Jurisdiction of the several grades of Civil Courts.

XIV of 1882. IX of 1887.

10. Subject to the provisions of this Act and of the Code of Civil Procedure, the Provincial Small Cause Courts Act, 1887, and any other enactment for the time being in force, the Courts mentioned in the first

column of the following table shall have such civil jurisdiction, respectively, as is specified in the second column thereof:—

Grades and name of Court.	Extent of jurisdiction.
1	2
(*a*) The Court of the Myo-ôk	Powers of a Civil Court for the adjudication of any suit of value not exceeding five hundred rupees.
(*b*) The Court of the Extra Assistant Commissioner and the Court of the Assistant Commissioner.	Powers of a Civil Court for the adjudication of any suit of value not exceeding three thousand rupees.
(*c*) The Court of the Deputy Commissioner.	Powers of a Civil Court for the adjudication of any suit without restriction as regards the value.
	Powers of a District Judge.
	Power to hear appeals from original decrees and orders of Courts of Myo-ôks, Extra Assistant Commissioners and Assistant Commissioners.
(*d*) The Court of the Judge of the Town of Maulmain.	Powers of a Civil Court for the adjudication of any suit without restriction as regards the value.
	Powers of a District Judge.
	Powers of a Provincial Court of Small Causes for the adjudication of any suit cognizable by such a Court and of value not exceeding one thousand rupees.
(*e*) The Court of the Commissioner.	As regards the Courts subordinate to the Court of the Commissioner, the same powers of withdrawal, trial and transfer as are conferred by section 25 of the Code of Civil Procedure on a District Court.
	Power to hear appeals from original decrees and orders of Courts of Deputy Commissioners.
(*f*) The Court of the Judicial Commissioner.	Powers of a High Court in relation to all Civil Courts in Lower Burma, except the Special Court, the Court of the Recorder and the Court of Small Causes of Rangoon.
	Power to hear appeals from original decrees and orders of Courts of Commissioners.

Special Civil Jurisdiction.

Enhancement of original jurisdiction of certain Civil Courts.

11. (*1*) The Local Government may, by notification in the Burma Gazette, invest any Myo-ôk with the powers of a Civil Court for the adjudication of suits of value not exceeding three thousand rupees and any Extra Assistant

Commissioner or Assistant Commissioner with such powers for the adjudication of suits of value not exceeding five thousand rupees.

(*2*) A Myo-ôk, or an Extra Assistant Commissioner or Assistant Commissioner, who has been invested with powers under sub-section (*1*), shall, for the purposes of section 191 of the Code of Civil Procedure, be deemed to be a successor to any Judge who has been prevented, from any such cause as is mentioned or referred to in that section, from concluding the trial of any suit which, if it were about to be instituted, would be cognizable by such Myo-ôk or such Extra Assistant Commissioner or Assistant Commissioner in exercise of those powers.

XIV of 1882.

Power to invest certain Courts with Small Cause Court jurisdiction.

12. The Local Government may, by a like notification, confer, within such local limits as it thinks fit, upon any Myo-ôk, Extra Assistant Commissioner or Assistant Commissioner the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, for the trial of suits cognizable by such Courts, up to such value not exceeding one hundred rupees in the case of a Myo-ôk, or five hundred rupees in the case of an Extra Assistant Commissioner or Assistant Commissioner, as it thinks fit, and may withdraw any jurisdiction so conferred.

IX of 1887.

Exercise by one Civil Court of jurisdiction within local jurisdiction of another such Court.

13. The Local Government may, by a like notification, empower the presiding officer of any Court of a grade specified in clause (*a*), (*b*), (*c*) or (*e*) of section 5 to exercise within the local limits of the jurisdiction of any other Court of the same grade all or any of the powers which might be exercised by the presiding officer of the other Court.

Power to confer powers of Court of Deputy Commissioner on certain district-officers.

14. (*1*) The Local Government may, by a like notification, confer upon the officer in chief executive charge of any district the powers which might be exercised within the district by the Court of a Deputy Commissioner.

(*2*) Where such powers are so conferred upon such an officer, the officer shall, for purposes connected with the exercise thereof, be deemed to be a Deputy Commissioner and his Court the Court of a Deputy Commissioner.

Civil Procedure.

Procedure where the presiding officer of a Court is personally interested in a case.

15. (*1*) The presiding officer of a Court of a grade specified in clause (*a*), (*b*), (*c*), (*d*) or (*e*) of section 5 shall not, without the consent of the parties or authority from the Court to which he is immediately subordinate, adjudicate upon any suit or other proceeding to which he is a party or in which he is personally interested, or upon any appeal from a decree or order passed by himself.

(*2*) When any such proceeding or appeal comes before the presiding officer

of any such Court, he shall, unless the parties consent to his proceeding therewith himself, transmit the record to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

(*3*) The Court to which the record is so transmitted shall thereupon either authorise such presiding officer to proceed with the case or itself dispose thereof under section 25 of the Code of Civil Procedure. XIV of 1882.

(*4*) In either of the following cases, namely:—

(*a*) if an appeal is preferred to the Judicial Commissioner from a decree or order which was passed by him in any other capacity or in which he is personally interested,

(*b*) if an application is made to him for the revision of such a decree or order,

he shall, unless the parties consent to his proceeding with the case himself, transmit the record to the Local Government with a report of the circumstances attending the reference, and thereupon that Government may transfer the case for trial to the Court of the Recorder.

Power of Deputy Commissioner to distribute business.

16. Notwithstanding anything in the Code of Civil Procedure, a Deputy Commissioner may, by written order, direct that any business cognizable under this Act by his Court and the Courts under his control shall be distributed among those Courts in such manner as he thinks fit:

Provided that no direction issued under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction.

Language of plaints and of record of evidence in Civil Courts.

17. Notwithstanding anything in the same Code, plaints may be written and evidence may be taken down in such language or languages as the Local Government directs in this behalf.

Civil Appeals and References.

Time for appeal to Commissioner.

18. (*1*) The period of limitation for an appeal to the Court of the Commissioner shall be forty-two days.

(*2*) In the computation of that period and in all other respects the limitation of the appeal shall be governed by the provisions of the Indian Limitation Act, 1877. XV of 1877.

Transfer of civil appellate jurisdiction to Commissioner and Judicial Commissioner.

19. (*1*) The Local Government may, by order notified in the Burma Gazette, direct that the civil appellate jurisdiction of the Court of any Commissioner or Deputy Commissioner shall be transferred to the Court of the Judicial Commissioner or Commissioner, respectively, either wholly or in

respect of a particular suit or class of suits, and either for a specified time or until further orders.

(*2*) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (*1*), but not so as to affect any proceedings pending at the date of the cancelling order.

Conferment of appellate powers on Assistant and Extra Assistant Commissioners.

20. (*1*) The Local Government may, by notification in the Burma Gazette, confer upon any Assistant Commissioner power to hear appeals from original decrees and orders of any Myo-ôk, Extra Assistant Commissioner or Assistant Commissioner, and upon any Extra Assistant Commissioner power to hear appeals from original decrees and orders of any Myo-ôk or Extra Assistant Commissioner, and may withdraw such power.

(*2*) An Assistant Commissioner or Extra Assistant Commissioner, upon whom power to hear appeals has been conferred under sub-section (*1*), shall, for purposes connected with the exercise thereof, be deemed to be a Deputy Commissioner.

Reference to Judicial Commissioner during progress of an appeal.

21. (*1*) When in the trial of any civil appeal an Appellate Court subordinate to the Court of the Judical Commissioner entertains a doubt in regard to a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence affecting the merits of the case, such Court may draw up a statement of the question in regard to which it entertains the doubt, and refer it, with the Court's own opinion on the question, for the decision of the Judicial Commissioner.

(*2*) The Judicial Commissioner shall, after considering the question so referred, send a ruling thereon to the Court by which the reference was made, and that Court shall, on the receipt of the ruling, proceed to dispose of the case in conformity therewith.

(*3*) The costs, if any, consequent on any such reference to the Judicial Commissioner shall be costs in the appeal out of which the reference arose.

Admission of second appeals by Judicial Commissioner

22. If in any case the appellate decree or order of the Court of a Deputy Commissioner or Commissioner reverses or modifies an original decree or order, the Judicial Commissioner may receive a second appeal if, on a perusal of the grounds of appeal and of copies of the judgments of the subordinate Courts, a further consideration of the case appears to him to be requisite for the ends of justice.

Finality of concurrent decisions of original and first appellate Courts on matters of fact.

23. If the appellate decree or order of the Court of a Deputy Commissioner or Commissioner confirms an original decree or order on a matter of fact, the appellate decree or order shall be final.

Reference or appeal to Judicial Commissioner with respect to concurrent decisions of original and first appellate Courts on questions of law.

24. (*1*) If in any case the appellate decree or order of the Court of a Deputy Commissioner or Commissioner confirms an original decree or order on a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence affecting the merits of the case, any party considering himself aggrieved by such appellate decree or order may apply to the Court of the Deputy Commissioner or Commissioner, as the case may be, either to draw up a statement of the question and submit the statement to the Judicial Commissioner, or to allow him to appeal on the question to the Judicial Commissioner.

(*2*) Such application shall not be admitted unless it is made within the period prescribed for an appeal to the Court of the Deputy Commissioner or Commissioner, as the case may be.

(*3*) If the Court, on an application for the drawing up of a statement, considers that there is a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence affecting the merits of the case, it shall draw up a statement of the question and of such facts only of the case as are necessary to explain it, and shall submit the statement, together with the record of the case, to the Judicial Commissioner.

(*4*) If the Court refuses to draw up such statement, it shall record in writing its reasons for so refusing, and a certified copy of the reasons shall, on application to the Court, be furnished to any party to the case.

(*5*) In the case of an application to be allowed to appeal to the Judicial Commissioner, the period during which the application was pending in the Court of the Deputy Commissioner or Commissioner shall, if the appeal is allowed, be excluded in the computation of the period of limitation for an appeal to the Judicial Commissioner.

Disposal of references under last foregoing section.

25. (*1*) When a case has been referred with a statement under the last foregoing section, the Judicial Commissioner shall, on payment in respect of the statement of the fee which would be payable in the case in respect of a memorandum of appeal to his Court, proceed to try the case as if it were an appeal instituted in his Court, and shall send a copy of his judgment and of his decree or order in the case to the Court by which the statement was submitted.

(*2*) If the statement appears to the Judicial Commissioner to be unduly limited, he may amend it as he thinks fit.

(*3*) Notwithstanding anything in sub-section (*1*), it shall not be necessary for any party to the case referred to be present either personally or otherwise at the trial thereof by the Judicial Commissioner.

(Chap. III.—The Court of the Judicial Commissioner and the Courts subordinate thereto. Secs. 26-28.)

Power to call for record where reference or appeal to Judicial Commissioner has been wrongly refused.

26. (*1*) In any case in which the Court of a Deputy Commissioner or Commissioner has, in the opinion of the Judicial Commissioner, wrongly refused to submit a statement or allow an appeal under section 24, the Judicial Commissioner may call for the record of the case, and may, on receipt of the record and on payment of the fee which would be payable in the case in respect of a memorandum of appeal to his Court, proceed to try the case as if it were an appeal instituted in his Court.

(*2*) Where the Judicial Commissioner so tries the case, he shall send a copy of his judgment and of his decree or order therein to the Court of the Deputy Commissioner or Commissioner, as the case may be.

Reference of questions of law by Judicial Commissioner to High Court.

27. (*1*) If any question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence arises in a case before the Court of the Judicial Commissioner under this Act, and the Judicial Commissioner, by reason of such question arising, entertains any doubt as to the decision to be passed in the case, he may, if he thinks fit, draw up a statement of the question and submit it to the High Court with the record of the case and his own opinion on the question.

(*2*) On receiving the statement the High Court, by a bench constituted by two or more Judges, shall decide the question referred therein and transmit to the Judicial Commissioner a copy of its judgment under the signature of its Registrar, and the Judicial Commissioner shall, on receipt of the copy, proceed to dispose of the case in conformity with the decision of the High Court.

(*3*) It shall not be necessary for any party to the case to be present in the High Court, either personally or otherwise, when the question referred comes before that Court for decision.

(*4*) Where the Judicial Commissioner makes a reference to the High Court under this section, he may make such a contingent decree or order, and such a decree or order shall be of such effect as is mentioned in section 618 of the Code of Civil Procedure. XIV of 1882.

(*5*) The costs, if any, consequent on a reference to the High Court under this section shall be costs in the case.

Criminal Jurisdiction.

Judicial Commissioner as High Court.

28. Except in reference to proceedings against European British subjects or persons jointly charged with European British subjects, the Court of the Judicial Commissioner shall be the highest Court of criminal appeal or revision for the whole of Lower Burma beyond the limits of the ordinary civil jurisdiction of the Recorder.

Divisional Commissioners as Courts of Session

29. (*1*) Subject to the provisions of sections 7 and 9 of the Code of Criminal Procedure, 1882, with respect to the alteration of the limits of sessions divisions and the appointment of Additional Sessions Judges to exercise jurisdiction in Courts of Session, each division for the time being administered by a Commissioner shall be a sessions division, the Court of the Commissioner shall be the Court of Session for the sessions division, and the Commissioner shall be the Judge of the Court of Session X of 1882.

(*2*) For the purposes of sub-section (*1*) the areas for the time being comprised within the local limits of the ordinary civil jurisdiction of the Recorder and the civil jurisdiction of the Court of the Judge of the Town of Maulmain shall be deemed not to be included in the divisions in which they are respectively situate.

Court of Session for Town of Maulmain

30. The area for the time being comprised within the local limits of the civil jurisdiction of the Court of the Judge of the Town of Maulmain shall be a sessions division, that Court shall be the Court of Session for the sessions division, and the Judge of that Court shall be the Judge of the Court of Session.

Power to transfer criminal jurisdiction of Commissioner to Judicial Commissioner

31. (*1*) The Local Government may, by order notified in the Burma Gazette, direct that the criminal jurisdiction of any Commissioner shall be transferred to the Judicial Commissioner either wholly or in respect of a particular case or class of cases, and either for a specified time or until further orders.

(*2*) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (*1*), but not so as to affect any proceeding pending at the date of the cancelling order.

Provisions with respect to transferred Jurisdiction.

Application of Acts VII of 1870 and XV of 1877 to certain transferred proceedings

32. When any civil or criminal appellate jurisdiction has been transferred under section 19 or section 31—

(*a*) fees shall be payable under the Court-fees Act, 1870, and any rules thereunder, at the rates at which they would be payable in the Court from which the jurisdiction was transferred, and VII of 1870

(*b*) all appeals and applications presented to a Court in the exercise of the jurisdiction so transferred shall, for the purposes of the law relating to limitation, be deemed to have been presented to the Court in the exercise of its ordinary jurisdiction.

Appointment and Removal of Officers.

Appointment of Civil Judges

33. (*1*) The Judicial Commissioner shall be appointed by the Governor General in Council

(*2*) The presiding officers of Courts of the grades specified in clauses (*a*), (*b*), (*c*), (*d*) and (*e*) of section 5 may be appointed by the Local Government.

Suspension and removal of Civil Judges.

34. (*1*) The presiding officer of a Court of a grade specified in any clause of section 5 may be suspended or removed by the Governor General in Council.

(*2*) The presiding officer of any such Court, except the Court of the Judicial Commissioner, may be suspended or removed by the Local Government.

Appointment of ministerial officers of Civil Courts.

35. (*1*) The ministerial officers of Courts of the grades specified in clauses (*a*) and (*b*) of section 5 shall be appointed by the Deputy Commissioner to whose Court those Courts are subordinate.

(*2*) The ministerial officers of Courts of other grades specified in section 5 shall be appointed by the presiding officers of those Courts.

(*3*) The foregoing sub-sections are subject to the proviso that the appointment of a ministerial officer to an office in a Court of a grade specified in clause (*a*), (*b*), (*c*), (*d*) or (*e*) of section 5 shall, if the monthly salary attached to the office exceeds fifty rupees, be subject to the sanction of the Judicial Commissioner.

Power to fine or remove such officers.

36. (*1*) A Court of a grade specified in clause (*a*) or (*b*) of section 5 may fine in an amount not exceeding one month's salary any of its ministerial officers who is guilty of misconduct or neglect in the performance of the duties of his office.

(*2*) The Deputy Commissioner may on appeal or otherwise remit or reduce any fine imposed under sub-section (*1*), and may himself dismiss or suspend, or fine up to the amount of one month's salary, any ministerial officer of his own Court or of any Court subordinate to his Court.

(*3*) A Court of a grade specified in clause (*d*), (*e*) or (*f*) of section 5 may dismiss or suspend any of its ministerial officers or fine any such officer in an amount not exceeding one month's salary.

CHAPTER IV.

The Court of the Recorder.

The Recorder.

Court of Recorder of Rangoon.

37. (*1*) There shall continue to be a Court to be called the Court of the Recorder of Rangoon.

(*2*) The Recorder shall be appointed by the Governor General in Council, and shall be a barrister of not less than five years' standing, and shall hold his office during the pleasure of the Governor General in Council.

(*3*) He shall ordinarily hold his Court at Rangoon, but the Local Government may direct him on any particular occasion to hold his Court at any other place in Lower Burma for the trial of any civil case transferred to him, or at any other place in Lower Burma or Upper Burma for the trial of any criminal case in which a European British subject is concerned.

(*4*) A direction given by the Local Government under sub-section (*3*) with respect to any criminal case shall take effect notwithstanding anything in section 336 of the Code of Criminal Procedure, 1882. X of 1882.

(*5*) The Recorder shall use a seal of such form and dimensions as the Local Government prescribes.

Civil Jurisdiction.

Variation of local limits of ordinary civil jurisdiction of Recorder.

38. The Local Government may, with the previous sanction of the Governor General in Council, vary the local limits of the ordinary civil jurisdiction of the Recorder.

Civil jurisdiction of Recorder.

39. (*1*) Subject to the provisions of this Act and of the Provincial Small Cause Courts Act, 1887, and any other enactment for the time being in force, IX of 1887. the Recorder shall have the powers of a District Judge within the local limits of his ordinary civil jurisdiction, and may adjudicate upon any suit, without restriction as regards the value, if, in the case of immoveable property, the subject-matter of the suit or any part thereof is situate, or if, in any other case, the cause of action or a material part thereof has arisen, or the defendant at the time of the commencement of the suit dwells, or either personally or by his servant or agent carries on business or works for gain, within those limits.

(*2*) A corporation or company having an office within those limits shall, when the cause of action, or a material part thereof, has arisen in Burma, or in any foreign territory adjacent thereto, be deemed, for the purpose of this section, to carry on business at such office.

Appeal from original decrees and orders of Recorder.

40. Save as otherwise provided by any enactment for the time being in force, an appeal shall lie to the High Court from an original decree or order passed by the Recorder in any suit or other civil proceeding of which the amount or value of the subject-matter is less than ten thousand rupees.

New trial and review by Recorder.

41. (*1*) The Recorder may, if he thinks fit, grant a new trial in any suit or other civil proceeding disposed of by him, if, in a suit relating to immoveable property, the new trial is applied for within ninety days from the date of the decree, and if, in any other case, it is applied for within thirty days from the date of the decree or order:

Provided that nothing in this section shall interfere with the power of the Recorder to allow a review of judgment under the Code of Civil Procedure, if XIV of 1882.

such review is applied for within the period allowed for making the application:

Provided also that the Recorder may, if he thinks fit, before granting a new trial or a review, require the party applying therefor to give sufficient security for due compliance with the terms of the decree or order to which the application relates, or for payment of the costs of the new trial or review, or for both purposes.

(*2*) Where a person has become liable as surety under the second proviso to sub-section (*1*), the security may be realised in manner provided by section 253 of the Code of Civil Procedure.

XIV of 1882.

Reference of cases by Recorder to High Court and procedure thereon.

42. (*1*) If in any case before the Recorder any question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence affecting the merits of the case arises on which the Recorder entertains any doubt, he may, if he thinks fit, draw up a statement of the question and submit it to the High Court with the record of the case and his own opinion on the question.

(*2*) On receiving the statement the High Court, by a bench constituted by two or more Judges, shall decide the question referred therein and transmit to the Recorder a copy of its judgment under the signature of its Registrar, and the Recorder shall, on receipt of the copy, proceed to dispose of the case in conformity with the decision of the High Court.

(*3*) It shall not be necessary for any party to the case to be present in the High Court, either personally or otherwise, when the question referred comes before that Court for decision.

(*4*) Where the Recorder makes a reference to the High Court under this section, he may make such a contingent decree or order, and such a decree or order shall be of such effect, as is mentioned in section 618 of the Code of Civil Procedure.

(*5*) The costs, if any, consequent on a reference to the High Court under this section shall be costs in the case.

Procedure where Recorder is personally interested in a case.

43. (*1*) When any suit or other civil proceeding comes before the Recorder to which he is a party or in which he is personally interested, he shall, unless the parties consent to his proceeding therewith himself, transmit the record to the Local Government, with a report of the circumstances attending the reference, and thereupon that Government may transfer the case for trial to the Court of the Judicial Commissioner.

(*2*) In the disposal of a case so transferred the Judicial Commissioner shall administer the same law, follow the same procedure, exercise the same powers and use the same seal as would be administered, followed, exercised and used

by the Recorder in a like case, and the decree or order made in the case by the Judicial Commissioner shall, for the purposes of the law relating to appeal, be deemed to be made by the Recorder.

Recorder as High Court for certain purposes.

44. The Court of the Recorder shall—

(*a*) for the purposes of the Suits Valuation Act, 1887, and VII of 1887.

(*b*) in respect of the Court of Small Causes of Rangoon,

be deemed to be a High Court.

Criminal Jurisdiction.

Recorder as Court of Session for Rangoon.

45. The area for the time being comprised within the local limits of the ordinary civil jurisdiction of the Recorder shall be a sessions division, the Court of the Recorder shall be the Court of Session for the sessions division, and the Recorder shall be the Judge of the Court of Session.

Recorder as High Court for Burma in reference to proceedings against European British subjects.

46. (*1*) The Recorder shall be the High Court for the whole of Burma (inclusive of Upper Burma and the Shan States) in reference to proceedings against European British subjects and persons jointly charged with European British subjects.

(*2*) When the Recorder, as the High Court for Burma under sub-section (*1*), in reference to such proceedings, passes sentence of death, the proceedings shall be submitted to the High Court of Judicature at Fort William in Bengal, and the sentence shall not be executed unless it is confirmed by that High Court.

(*3*) When proceedings are submitted to the High Court under sub-section (*2*), that Court shall, as a High Court, deal therewith, under the provisions, *mutatis mutandis*, of Chapter XXVII of the Code of Criminal Procedure, 1882, X of 1882. as if they had been submitted by a Court of Session and the Recorder were the Sessions Judge.

(*4*) If in any case before the Recorder as a High Court under this section any such question arises as is referred to in section 42, and the Government Advocate certifies that in his opinion there is an error in the decision of the question, the Recorder shall make a reference to the High Court in the manner required by that section, and shall, on receipt of the copy of the judgment of the High Court, review the case or such part of it as may be necessary, and may thereupon reduce or remit any sentence which he has passed.

Effect of the last foregoing section with respect to Shan States.

47. So far as the last foregoing section relates to the Shan States, it shall come into force therein at once notwithstanding anything in section 8, sub-section (*2*), of the Upper Burma Laws Act, 1886, or in section 3, sub-section XX of 1886. (*1*), of the Shan States Act, 1888. XV of 1888.

Recorder as High Court for certain purposes.

48. The Court of the Recorder shall—

X of 1882. (*a*) for the purposes of section 527 of the Code of Criminal Procedure, 1882, and

(*b*) in respect of the Magistrates within the local limits of its ordinary civil jurisdiction and the proceedings of such Magistrates,

be deemed to be a High Court.

Admiralty Jurisdiction.

Admiralty jurisdiction of Recorder.

49. (*1*) Throughout Lower Burma, including the territorial waters thereof, the Recorder shall have and exercise all such civil jurisdiction and maritime jurisdiction of a civil nature as may now be exercised by the High Court as a Court of Admiralty or of Vice-Admiralty, and also such jurisdiction for the trial and adjudication of prize-causes and other maritime questions as may now be exercised by the said High Court.

XIV of 1882. (*2*) The procedure in cases brought before the Recorder in the exercise of such jurisdiction shall be regulated, as far as may be, by the Code of Civil Procedure, and, in cases to which the rules contained in that Code are not applicable, the procedure shall be in accordance with the rules for the time being applicable to like cases in the High Court.

(*3*) An appeal shall lie to the High Court from any sentence or decree of the Recorder under this section, subject to the laws, rules and orders for the time being in force regarding appeals to the High Court under the Code of Civil Procedure.

Insolvency Jurisdiction.

Insolvency jurisdiction of Recorder.

50. (*1*) Within the local limits of the ordinary civil jurisdiction of the Recorder, and of the jurisdiction of the Court of the Judge of the Town of Maulmain, the Recorder shall have and exercise such powers and authorities with respect to insolvent debtors and their creditors as are for the time being exerciseable with respect to insolvent debtors and their creditors by the High Court or a Judge thereof in Calcutta.

(*2*) The procedure in cases brought before the Recorder in the exercise of such jurisdiction shall be, as far as may be practicable, in accordance with the procedure prescribed by the Statute 11 and 12 Victoria, Chapter 21, as amended by any enactment for the time being in force.

(*3*) The Recorder shall, with the previous sanction of the Local Government, appoint a person to be official assignee in all insolvencies prosecuted in the Court of the Recorder, and the provisions of the said Statute relating to official

assignees shall, *mutatis mutandis* and subject to the other provisions of this section, apply to the assignee so appointed.

(*4*) Every order made by the Recorder in the exercise of the jurisdiction conferred by this section shall have the same force throughout British India as if it had been made by the High Court or a Judge thereof, and all the provisions of the said Statute relating to the persons or property of insolvents shall, *mutatis mutandis*, apply to insolvents applying for relief under this section.

(*5*) Any person considering himself aggrieved by any adjudication, order or proceeding of the Recorder under this section may, within thirty days from the date thereof, present a petition to the Special Court, and that Court shall enquire into the matter of the petition and make such order thereon as it thinks just, and such order shall be final and conclusive on all parties, and shall be binding on the Court of the Recorder.

(*6*) The Recorder may from time to time, with the previous sanction of the Local Government, make rules consistent with this Act for facilitating within his jurisdiction the relief intended to be hereby given.

(*7*) No conveyance, letter-of-attorney or other instrument executed under any order of the Recorder in exercise of the jurisdiction conferred by this section shall be chargeable with stamp-duty.

Power to vest in Judge of Town of Maulmain the insolvency jurisdiction vested in Recorder in that Town.

51. (*1*) The Local Government may, by order notified in the Burma Gazette, direct that, from a date to be therein specified, the jurisdiction vested by the last foregoing section in the Recorder within the local limits of the civil jurisdiction of the Court of the Judge of the Town of Maulmain shall be vested in the Judge of that Town.

(*2*) While any such order is in force, the last foregoing section shall, within the local limits of the civil jurisdiction of the Court of the Judge of the Town of Maulmain, have effect as if it referred to the Judge of that Town instead of to the Recorder, and all cases pending at the date of the order shall be disposed of accordingly:

Provided that the Recorder may withdraw from the Court of the Judge and dispose of in his own Court any case, whether pending at the date of the order or subsequently instituted, which, by reason of its importance or otherwise, may, in his opinion, be more conveniently so disposed of.

(*3*) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (*1*), but not so as to affect any proceedings pending at the date of the cancelling order.

Inapplicability of Chapter XX, Act XIV, of 1882.

52. Nothing in Chapter XX of the Code of Civil Procedure shall apply to any Court having jurisdiction within the local limits of the ordinary civil juris- XIV of 1882.

diction of the Recorder or of the civil jurisdiction of the Court of the Judge of the Town of Maulmain. 1882, to Rangoon and Maulmain.

XVII of 1875. XIV of 1885. **53.** The provisions of section 66 of the Burma Courts Act, 1875, and section 2 of the Burma Courts Act, 1885, shall continue to apply, as if this Act had not been passed, to any proceedings pending immediately before the commencement of this Act in the Courts of the Recorder and the Deputy Commissioner of Akyab as Courts for the Relief of Insolvent Debtors within the towns of Bassein and Akyab under those sections. Temporary continuance of insolvency jurisdiction of Recorder at Bassein and Deputy Commissioner at Akyab.

Registers and Returns.

54. (*1*) The Recorder shall keep such registers, books and accounts as may be necessary for the transaction of the business of his Court, and shall submit to the Local Government such of those registers, books and accounts, and such statements of the work done in his Court, as may be required by the Local Government. Books and accounts, and statements and returns, to be kept and furnished by Recorder.

(*2*) The Recorder shall also comply, in such form and manner as the Local Government may deem proper, with such requisitions as may be made by the Local Government for records of, or papers belonging to, the Court of the Recorder or any Court with respect to which the Court of the Recorder is under section 44 or section 48 to be deemed to be a High Court, or for certified copies of, or extracts from, such records or papers or for returns, statements or reports.

Ministerial Officers.

55. The ministerial officers of the Court of the Recorder, including the Registrar of the Court, shall be appointed, and may be dismissed or suspended, or fined in an amount not exceeding one month's salary, by the Recorder, but the suspension or dismissal of any such officer drawing a monthly salary of one hundred rupees or upwards shall be subject to confirmation by the Local Government. Appointment and removal of ministerial officers.

XIV of 1882 **56.** (*1*) Any non-judicial or quasi-judicial act which is required by the Code of Civil Procedure to be done by a Judge, and any act which may be done by a Commissioner appointed to examine and adjust accounts under section 394 of that Code, may in the Court of the Recorder be done by the Registrar of the Court or by such other officer of the Court as the Recorder may direct. Discharge of non-judicial functions by Registrar.

(2) The Recorder may from time to time, by rule made with the previous sanction of the Local Government, declare what shall be deemed to be non-judicial and quasi-judicial acts within the meaning of sub-section (*1*).

Exceptional Provisions.

Discharge of functions of Recorder in case of vacancy in his office.

57. Upon the occurrence of any vacancy in the office of Recorder, and during any absence of the Recorder, the Local Government may direct the Judicial Commissioner or any Commissioner to discharge the functions of the Recorder, and the Judicial Commissioner or the Commissioner so directed shall thereupon be authorized to preside in the Court of the Recorder and to exercise the jurisdiction of the Recorder until some person has been appointed by the Governor General in Council to fill, or officiate in, the office of the Recorder, and has entered upon the performance of the duties of such office, or until the Recorder resumes his duties.

Transfer of civil cases from other Courts in Lower Burma to Court of Recorder.

58. (*1*) The Local Government may direct the transfer to the Court of the Recorder of any civil case which may be pending in the Court of the Judicial Commissioner or in any Court subordinate to the Court of the Judicial Commissioner.

(*2*) Subject to the other provisions of this Act, every case so transferred shall be tried and determined by the Recorder in the same manner as if he had originally had jurisdiction in the case and it had been instituted in his Court.

Transfer of cases from Court of Recorder to Court of Judicial Commissioner.

59. (*1*) The Local Government may transfer to the Court of the Judicial Commissioner any particular case or class of cases which may be pending in the Court of the Recorder.

(*2*) In the disposal of any such case the Judicial Commissioner shall administer the same law, follow the same procedure, exercise the same powers and use the same seal as would be administered, followed, exercised and used by the Recorder in such a case.

(*3*) All decrees, orders and sentences made or passed by the Judicial Commissioner in cases transferred to him under this section shall, for the purposes of the law relating to appeal, reference and revision and to the submission of sentences of death for confirmation, be deemed to be made or passed by the Recorder.

Appointment of Additional Recorder.

60. (*1*) The Governor General in Council may, by notification in the Gazette of India, appoint, to be an Additional Recorder and to sit as such in the Court of the Recorder, such person as he thinks fit being a barrister of not less than five years' standing, or a person who has for at least three years served as a District Judge or exercised the like powers as those of a District Judge.

(*2*) A person so appointed shall hold his office during the pleasure of the Governor General in Council.

Disposal of business by Additional Recorder.

61. (*1*) An Additional Recorder appointed under the last foregoing section shall sit at such of the places at which the Recorder's Court can be held as the Local Government directs, and shall dispose of such cases pending in the Recorder's Court as the Local Government or, subject to the control of that Government, the Recorder may from time to time direct, and in the disposal of such cases shall administer the same law, follow the same procedure, exercise the same powers and use the same seal as would be administered, followed, exercised and used by the Recorder in like cases.

(*2*) All decrees, orders and sentences made or passed in such cases by an Additional Recorder shall, for the purposes of the law relating to appeal, reference and revision and to the submission of sentences of death for confirmation, be deemed to be made or passed by the Recorder.

(*3*) The Local Government may cancel any direction under sub-section (*1*) requiring the Additional Recorder to dispose of a case.

CHAPTER V.

The Special Court.

Constitution of Special Court.

62. (*1*) The Special Court shall ordinarily be constituted by the Judicial Commissioner and the Recorder sitting together.

(*2*) But the Local Government may direct that for the hearing of any particular case or class of cases the Special Court shall be constituted by the Judicial Commissioner, the Recorder and the Judge of the Town of Maulmain sitting together, and the Local Government may cancel any such direction.

(*3*) As members of the Special Court, the Judicial Commissioner and the Recorder shall have precedence over the Judge of the Town of Maulmain, and shall, as between themselves, have precedence according to priority of appointment.

(*4*) For the purposes of the last foregoing sub-section, a Judicial Commissioner or Recorder substantively appointed shall be deemed to have precedence, by reason of priority of appointment, over an officiating Recorder or Judicial Commissioner, as the case may be.

Sittings, seal and officers of Special Court.

63. (*1*) The Special Court shall ordinarily be held at Rangoon, but the Local Government may direct it to be held at any other place in Lower Burma.

(*2*) The Special Court shall use a seal of such form and dimensions as the Local Government prescribes.

(*3*) The Judicial Commissioner and the Recorder may appoint, suspend or dismiss the ministerial officers of the Special Court:

Provided that the suspension or dismissal of any officer drawing a monthly salary of one hundred rupees or upwards shall be subject to confirmation by the Local Government.

Appeals to Special Court from Judge of Maulmain.

64. Appeals from decrees and orders passed by the Judge of the Town of Maulmain in suits and other civil proceedings shall, where such appeals are allowed by law, be heard and determined by the Special Court.

Trial of cases before Special Court by order of Local Government.

65. The Local Government may direct that any civil suit or appeal, or any criminal case or appeal, pending in the Court of the Judicial Commissioner or in the Court of the Recorder, shall be transferred to and tried before the Special Court.

Special Court as High Court in certain criminal matters.

66. With reference to trials held by the Judicial Commissioner in the exercise of the original criminal jurisdiction of a Court of Session under section 31 of this Act or of a High Court under section 526 of the Code of Criminal Procedure, 1882, or by the Recorder in exercise of the original jurisdiction of a Court of Session, and to sentences passed on such trials, the Special Court shall, for the purposes of the said Code, be deemed to be a High Court. X of 1882.

Sittings of Special Court at request of Judicial Commissioner or Recorder.

67. If in any civil suit or appeal or in any criminal case or appeal pending in the Court of the Judicial Commissioner or in the Court of the Recorder, the Court wishes to obtain the opinion of the Special Court on any question of fact or law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence, or to obtain the assistance of the Special Court for the determination of the case pending before it, such Court shall record a memorandum to that effect, and the Special Court shall, as soon as may be convenient, sit for the disposal of the question or for the determination of the pending case.

Decree of Special Court to be deemed decree of other Court in certain cases.

68. Any decree, order or sentence passed by the Special Court in a case tried under section 65, or on a memorandum recorded under section 67, shall issue as, and be deemed to be, a decree, order or sentence of the Court from which the case was referred to the Special Court.

Rules as to finding of Special Court in case of difference of opinion.

69. (*1*) Whenever, in cases before the Judicial Commissioner and the Recorder sitting together as the Special Court, a difference of opinion arises, the following rules shall be observed:—

(*a*) In cases coming before the Special Court under section 67, the opinion of the Court which sought the opinion of the Special Court shall prevail unless the difference of opinion is on a question of law or of custom having the force of law or as to the construction of any

document or the admissibility of any evidence, and both members of the Special Court concur in stating the question and forwarding such statement, with their respective opinions on the question, to the High Court.

(*b*) In cases coming before the Special Court by way of appeal, and not being criminal cases or cases provided for by clause (*a*) of this sub-section, if both members of the Special Court do not concur in a judgment varying the decree or order appealed from, such decree or order shall be upheld :

Provided that, if the difference of opinion is on a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence, and either member of the Special Court is of opinion that the question should be referred to the High Court, both members shall state the question and forward such statement, with their respective opinions on the question, to the High Court.

(*c*) In criminal cases, and in cases not coming before the Special Court by way of appeal and not being cases provided for by clause (*a*) of this sub-section, both members of the Special Court shall state the question as to which they differ, and forward such statement, with their respective opinions on the question, to the High Court.

(*2*) Whenever, in cases before the Judicial Commissioner, the Recorder and the Judge of the Town of Maulmain sitting together as the Special Court, a difference of opinion arises, the decision shall be in accordance with the opinion of the majority of the members of the Court.

Procedure of High Court on reference under the last foregoing section.

70. (*1*) On receiving a statement forwarded in any case under the last foregoing section, the High Court, by a bench constituted by two or more Judges, shall decide the question referred therein and transmit to the Special Court a copy of its judgment under the signature of its Registrar, and the Judicial Commissioner and the Recorder sitting together as the Special Court shall, on receipt of the copy, proceed to dispose of the case in conformity with the decision of the High Court.

(*2*) Until the case is so disposed of, it shall be deemed to be pending in the Special Court.

(*3*) It shall not be necessary for any party to the case to be present in the High Court, either personally or otherwise, when the question referred comes before that Court for decision.

(*4*) The costs, if any, consequent on the statement of the question for the decision of the High Court shall be costs in the case.

Special Court to be deemed a High Court for the purposes of Acts VII of 1870 and XV of 1877

71 (*1*) For the purposes of the Court-fees Act, 1870, the Special Court shall be deemed to be a High Court in the exercise of its jurisdiction as a Court of Appeal or as a Court of Reference, as the case may be. VII of 1870

(*2*) For the purposes of the Indian Limitation Act, 1877, appeals and applications to the Special Court shall be deemed to be, respectively, appeals and applications to a High Court under the Code of Criminal Procedure, 1882, or under the Code of Civil Procedure, as the case may be. XV of 1877 X of 1882 XIV of 1882

Substitution of Additional Recorder for Judge of Town of Maulmain for purposes of this Chapter

72. If at any time there is an Additional Recorder appointed under section 60, the foregoing provisions of this Chapter with respect to the Judge of the Town of Maulmain shall, while the Additional Recorder holds office, be construed as referring to the Additional Recorder and not to the Judge of the Town of Maulmain.

CHAPTER VI.

ADVOCATES

In the Court of the Recorder and the Courts subordinate thereto.

Licensing of advocates by Recorder

73. (*1*) Subject to the other provisions of this Chapter, no person shall be permitted to appear, plead or act as an advocate in the Court of the Recorder, or in any Court with respect to which the Court of the Recorder is under section 44 or section 48 to be deemed to be a High Court, or in the Court of the Judicial Commissioner, when the Judicial Commissioner is disposing of a case transferred to him under section 43 or section 59, unless such person has been licensed thereto by the Recorder, either generally or specially.

(*2*) The Recorder may from time to time, with the previous sanction of the Local Government, make rules for the qualification and admission of proper persons to appear, plead or act as advocates in such Courts.

Suspension or withdrawal of license by Recorder

74. (*1*) The Recorder may, for any sufficient reason, by order suspend or withdraw any license granted by him under the last foregoing section

(*2*) Any person aggrieved by an order of the Recorder under sub-section (*1*) may appeal to the High Court, and, for the purposes of the Indian Limitation Act, 1877, his appeal shall be deemed to be an appeal under the Code of Civil Procedure. XV of 1877 XIV of 1882.

In the Court of the Judicial Commissioner and the Courts subordinate thereto.

Licensing of advocates by Judicial Commissioner

75. (*1*) Subject to the other provisions of this Chapter, no person shall be permitted to appear, plead or act as an advocate in the Court of the Judicial Commissioner, or in any Court, whether civil or criminal, subordinate thereto,

or in the Court of the Recorder when the Recorder is disposing of a case transferred to his Court under section 15 or section 58, unless such person has been licensed thereto by the Judicial Commissioner, either generally or specially.

(*2*) The Judicial Commissioner may from time to time, with the previous sanction of the Local Government, make rules for the qualification and admission of proper persons to appear, plead or act as advocates in such Courts, and for the suspension or dismissal of any such advocates who are guilty of fraudulent or grossly improper conduct.

Provisos.

Provisos to the two last foregoing sections.

76. The two last foregoing sections and any rules thereunder shall be subject to the following provisos, namely:—

(*a*) any person having general or special authority from the Local Government may, without any license from the Recorder or the Judicial Commissioner, appear, plead or act for the Secretary of State for India in Council;

(*b*) a party may, without any such license, appear, plead or act on behalf of himself or a co-party;

(*c*) a person who for the time being is an advocate, vakil or attorney-at-law of any of the High Courts of Judicature in India may, without any such license, appear, plead or act as an advocate; and

(*d*) nothing in the sections or the rules shall be deemed to affect section 340 of the Code of Criminal Procedure, 1882.

X of 1882.

In the Special Court.

Advocates in Special Court.

77. Any person for the time being authorized by or under the foregoing provisions of this Chapter to appear, plead or act in the Court of the Recorder or in the Court of the Judicial Commissioner may also appear, plead or act, as the case may be, in the Special Court.

Discipline and Fees.

Penalty for acting as an Advocate without authority.

78. Any person appearing, pleading or acting in any Court in contravention of the foregoing provisions of this Chapter or the rules thereunder shall be liable, by order of the Court, to a fine which may extend to five hundred rupees.

Taxation of fees of advocates.

79. The fees to be received by any advocate for business done in any Court under this Act shall at all times be subject to the control and taxation of the presiding Judge, and no such fees shall be recoverable unless they have been allowed on taxation by the Judge or such officer as he appoints in this behalf.

Rules as to fees of advocates.

80. (*1*) The Judicial Commissioner may from time to time make rules regulating the fees payable to advocates in his own Court and in Courts subordinate to him; and

(*2*) The Recorder may from time to time make rules regulating the fees payable to advocates in his own Court and in the Court of Small Causes of Rangoon; and

(*3*) The Judicial Commissioner and the Recorder may from time to time make rules regulating the fees payable to advocates in the Special Court.

Touting.

Penalty for receiving or giving commission.

81. (*1*) Whoever commits any of the following offences:—

(*a*) solicits or receives from any legal practitioner any gratification in consideration of procuring or having procured his employment in any legal business;

(*b*) retains any gratification out of remuneration paid or delivered or agreed to be paid or delivered to any legal practitioner for such employment;

(*c*) being a legal practitioner, tenders, gives or consents to the retention of any gratification for procuring or having procured the employment in any legal business of himself or any other practitioner,

shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(*2*) The expression "legal practitioner" in sub-section (*1*) means any person licensed as an advocate under section 73 or section 75, or appearing, pleading or acting as an advocate under section 76, clause (*c*), without a license.

CHAPTER VII.

SUPPLEMENTAL PROVISIONS.

Court of Small Causes of Rangoon.

Court of Small Causes of Rangoon.

82. (*1*) The Governor General in Council shall be deemed to have had authority, under section 15 of Act XI of 1865, from time to time to invest any person for an unlimited time with the powers of a Judge of the Court of Small Causes of Rangoon

(*2*) The persons who have since the thirtieth day of June, 1887, held, or are at the commencement of this Act or may be thereafter holding, office by the names of First Judge and Second Judge of the Court of Small Causes of Rangoon shall be deemed to have been appointed to the offices of Judge and Additional Judge, respectively, under section 6, sub-section (*1*), and section 8, sub-section (*1*), of the Provincial Small Cause Courts Act, 1887.

IX of 1887.

(*3*) Notwithstanding anything in section 8, sub-section (*2*), of that Act, the Local Government may make rules restricting, in such manner as it thinks fit, the functions which the Judge of the Court of Small Causes of Rangoon may assign to the Additional Judge of that Court, and any rules or instructions made or issued before the commencement of this Act for defining the respective functions of the Judges of that Court shall be deemed to have been lawfully made or issued, and shall, until they are varied by the Local Government, be deemed after the commencement of this Act to be rules under this sub-section.

XIV of 1882.

(*4*) Notwithstanding anything in the Code of Civil Procedure, all or any proceedings, written or oral, before the Additional Judge of the Court of Small Causes of Rangoon shall be in such language as the Local Government may prescribe.

Enhancement of powers of Judge of Court of Small Causes of Rangoon.

83.[a] (*1*) The Local Government may, by order notified in the Burma Gazette, direct that such suits of a civil nature as are not excepted from the cognizance of a Court of Small Causes by section 15, sub-section (*1*), of the Provincial Small Cause Courts Act, 1887, and are of value exceeding one thousand and not exceeding two thousand rupees, shall be cognizable by the Judge of the Court of Small Causes of Rangoon as if they were suits cognizable by him under the said Act, and thereupon so much of that Act as relates to—

IX of 1887.

(*a*) the exclusion of the jurisdiction of any other Court in such suits,

(*b*) the practice and procedure of Courts of Small Causes,

(*c*) appeal from certain orders of those Courts and revision of cases decided by them, and

(*d*) the finality of their decrees and orders subject to such appeal and revision as are provided by the said Act,

shall apply to such suits and to the trial thereof and the decrees and orders therein.

(*2*) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (*1*), but not so as to affect any proceedings pending at the date of the cancelling order.

[a] For order under s. 83, see Burma Gazette, 15th June, 1889, Pt. I, p. 282.

Court-fees on applications to Recorder for exercise of revisional jurisdiction over Court of Small Causes of Rangoon.

84. In the first schedule to the Court-fees Act, 1870, after No. 13, the following shall be inserted, namely:— VII of 1870.

Number.		Proper fee.
"14. Application to the Court of the Recorder of Rangoon for the exercise of the revisional jurisdiction of a High Court over the Court of Small Causes of Rangoon under section 622 of the Code of Civil Procedure or section 25 of the Provincial Small Cause Courts Act, 1887.	When the amount or value of the subject-matter in dispute does not exceed twenty-five rupees.	Two rupees.
	When such amount or value exceeds twenty-five rupees.	The fee leviable on a memorandum of appeal." XIV of 1882. IX of 1887.

Refund of fees paid on applications to Recorder for revision.

85. If the Recorder, on an application under section 622 of the Code of Civil Procedure or section 25 of the Provincial Small Cause Courts Act, 1887, on which a fee has been paid under the Court-fees Act, 1870, as amended by the last foregoing section, sets aside or modifies the decree or order of the Court of Small Causes, or remands the case for a fresh decision, he may grant to the applicant a certificate authorizing him to receive back from the Collector the full amount of fee paid on the application, or any smaller amount which, with regard to the circumstances of the case, he may think proper to order to be refunded. XIV of 1882. IX of 1887. VII of 1870.

Court of the Judge of the Town of Maulmain.

Conferment of subsidiary jurisdiction in small causes in Maulmain.

86. (*1*) The Local Government may, by notification in the Burma Gazette, confer, within the local limits of the civil jurisdiction of the Court of the Judge of the Town of Maulmain,—

(*a*) upon any Extra Assistant Commissioner or Assistant Commissioner at Maulmain the jurisdiction of an Additional Judge of a Court of Small Causes, and

(*b*) upon the chief ministerial officer of the Court of the Judge of the Town of Maulmain all or any of the powers conferred or conferable by or under the Provincial Small Cause Courts Act, 1887, upon the Registrar of a Court of Small Causes. IX of 1887.

(*2*) For purposes connected with the exercise of jurisdiction and powers so conferred, the provisions of the Provincial Small Cause Courts Act, 1887, shall, so far as they can be made applicable, apply as if the Court of the Judge of the Town of Maulmain were a Court of Small Causes, and the Judge of that Town and the Extra Assistant Commissioner or Assistant Commissioner were respectively the Judge and the Additional Judge of the Court, and the chief ministerial officer were the Registrar thereof.

(*3*) The Local Government may withdraw any jurisdiction or powers conferred under this section.

Jurisdiction of the Court under Act XIII of 1874.

87. The Judge of the Town of Maulmain shall, for the purposes of the XIII of 1874. European British Minors Act, 1874, sections 2 and 8,[a] be deemed to be a Deputy Commissioner:

Provided that appeals from his orders under that Act shall lie to the Special Court.

Powers, Holidays and other Matters.

Powers with respect to ministerial officers of Courts.

88. (*1*) The Local Government shall have a power of general control over all appointments and punishments of ministerial officers of Courts under this Act.

(*2*) Any fine imposed on a ministerial officer of such a Court may, unless the order imposing it otherwise directs, be recovered by deduction from such officer's salary.

Power of Local Government to make rules as to process-serving establishments.

89. The Local Government may, with the previous sanction of the Governor General in Council, make rules with respect to the establishments to be maintained for the service and execution of processes issued by Civil and Criminal Courts and Revenue Courts and authorities, and may declare rules so made to VII of 1870. be in supersession of any rules made under the Court-fees Act, 1870, or under this Act.

Mode of appointment and conferring powers.

90. The Local Government may, when it is empowered by this Act to make any appointment or confer any powers, appoint, or confer the powers on, any person either specially by name or generally by virtue of his office.

Powers to make rules as to fees and other matters in Courts of Judicial Commissioner and Recorder and in Special Court.

91. (*1*) The Judicial Commissioner, so far as regards his own Court and the Courts subordinate thereto, may, and on the request of the Local Government shall, with the previous sanction of that Government, make rules as to the fees to be charged in respect of any of the following matters, namely:—

(*a*) the making of copies and translations;

(*b*) the inspection of records, books and registers; and

(*c*) any other matter in respect of which fees are for the time being chargeable under the authority of the High Court in any part of the Bengal Division of the Presidency of Fort William.

(*2*) The Recorder may, and on the request of the Local Government shall, with the previous sanction of that Government, make rules,—

(*a*) so far as regards his own Court and any Court with respect to which the Court of the Recorder is under section 44 or section 48 to

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[a] See *supra*, pp. 88 and 90, respectively.

be deemed to be a High Court, as to any of the following matters, namely:—

(i) the regulation of practice and procedure;

(ii) the service and execution of processes, and the fees to be charged therefor;

(iii) subject to the provisions of section 554 of the Code of Criminal Procedure, 1882, and section 644 of the Code of Civil Procedure, the forms to be used for any proceedings; and X of 1882. XIV of 1882.

(iv) any matter specified or referred to in clause (*a*), clause (*b*) or clause (*c*) of sub-section (*1*); and

(*b*) so far as regards his own Court and the Court of the Judge of the Town of Maulmain, as Courts for the Relief of Insolvent Debtors under this Act, as to the remuneration to be allowed to the official assignees and to the other officers of those Courts.

(*3*) The Judicial Commissioner and the Recorder, so far as regards the Special Court, may, and on the request of the Local Government shall, with the previous sanction of that Government, make rules as to any of the following matters, namely:—

(*a*) the regulation of the times and places for the sitting of the Court;

(*b*) the distribution of business among the Judges thereof; and

(*c*) any matters specified or referred to in clause (*a*) of sub-section (*2*).

Power to make rules as to judgments, evidence and affidavits in Courts of Judicial Commissioner and Recorder and in Special Court.

92. (*1*) The Judicial Commissioner and the Recorder for their respective Courts, and the Judicial Commissioner and the Recorder for the Special Court, may also make rules to provide for—

(*a*) the recording of judgments, orders and sentences;

(*b*) the taking down of the evidence of witnesses; and

(*c*) the admission of affidavits as evidence of the matters to which such affidavits relate: and

(*2*) The Local Government, on being satisfied that such rules provide sufficiently for the matters to which they respectively refer, may exempt the Judicial Commissioner, the Recorder or the Special Court, as the case may be, from the operation of such parts of the Code of Criminal Procedure, 1882, and the Code of Civil Procedure, as relate to the mode of recording judgments, orders and sentences and of taking down the evidence of witnesses, and may permit the admission of affidavits as evidence of the matters aforesaid. X of 1882. XIV of 1882.

Differences of opinion between Judi.

93. If the Judicial Commissioner and the Recorder differ in opinion as to the appointment, suspension or dismissal of a ministerial officer of the Special

Court under section 63, sub-section (*3*), or as to any rule for the Special Court under section 91, sub-section (*3*), or section 92, the difference shall be referred to the Local Government, and the order of that Government thereon shall be final.

cial Commissioner and Recorder as administrative representatives of Special Court.

94. (*1*) The Judicial Commissioner and the Recorder, respectively, with the approval of the Local Government, shall publish in the Burma Gazette, before the commencement of each calendar year, a list of days to be observed in that year as holidays in their own Courts and the Courts respectively subject to their authority. Holidays.

(*2*) A judicial act done by a Court on a day specified in the list as a day to be observed by the Court as a holiday shall not be invalid by reason only of its having been done on that day.

95. (*1*) Where a Court has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case which, if that Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court to which the business of the former Court has been transferred. Continuance of proceedings of abolished Courts.

(*2*) Nothing in this section applies to cases for which provision is made in section 623 or section 649 of the Code of Civil Procedure or in any other enactment for the time being in force. XIV of 1882.

96. No rule made under this Act shall take effect until it has been published in the Burma Gazette. Publication of rules in Burma Gazette.

Laws.

97. In the enactments mentioned in the second schedule, for the words specified in the third column of that schedule, there shall be substituted the words specified in the fourth column thereof. Modification of certain enactments.

98. (*1*) For the last paragraph of section 7 of the Prisoners' Testimony Act, 1869, the following shall be substituted, namely:— XV of 1869. Amendment of sections 7 and 8, Act XV of 1869.

"For the purposes of this Act, every jail in Lower Burma shall be deemed to be situate within the local limits of the appellate jurisdiction of the Judicial Commissioner, and the Recorder of Rangoon may issue orders under this section or section 3 or 4, and may also issue commissions under Part III of this Act, in any jail in Lower Burma."

(*2*) For the second paragraph of section 8 of the same Act the following shall be substituted, namely:—

"To obtain the removal of a person confined in a jail situate beyond the

limits of Lower Burma for the purpose of giving evidence in any criminal matter in any Court within the local limits of the ordinary civil jurisdiction of the Recorder of Rangoon, the Recorder shall have the power conferred on a Judge of a High Court by the former part of this section, and the other provisions of such part shall, *mutatis mutandis*, apply."

Saving of Act XL of 1858 and Bengal Regulations V of 1799 and III of 1818.

99. (*1*) Act XL of 1858[a] is hereby declared to be, and from the fifteenth day of January, 1863, to have been, in force throughout Lower Burma.

(*2*) The unrepealed portions of Regulation V of 1799, section 7,[b] and Regulation III of 1818[c] of the Bengal Code shall, *mutatis mutandis*, be deemed to extend, and on and from the sixteenth day of September, 1875, to have extended, to Lower Burma, and the former of those enactments shall have effect, and, so far as may be necessary to validate anything heretofore done thereunder by the Local Government, shall be deemed to have had effect, as if the Local Government were therein referred to instead of the Governor General in Council.

Certain references to Act VII of 1874 to be read as references to Act XVII of 1884.

100. The references in section 1 of the Burma District Cesses and Rural Police Act, 1880,[d] and section 2 of the Rangoon Tramways Act, 1883,[e] to the British Burma Municipal Act, 1874, and in section 1 of the Rangoon Port Commissioners' Act, 1879,[f] to the Chief Commissioner of British Burma under the British Burma Municipal Act, 1874, section 28, shall be deemed to be, and on and from the third day of January, 1885, to have been, references to the Burma Municipal Act, 1884, and to the Local Government under the Burma Municipal Act, 1884, section 60, clause (*c*), respectively. II of 1880. XXII of 1883. VII of 1874. XV of 1879. XVII of 1884.

Conferment of magisterial and other powers upon police-officers in Salween and Arakan Hill Districts.

101. In the tracts of country respectively known as the Salween District and the Hill District of Arakan section 20 of Act V of 1861 shall not apply to any police-officer appointed under section 4 of that Act, and, notwithstanding anything in the Code of Criminal Procedure, 1882, the Local Government shall be deemed to have, and always to have had, power to confer on any such police-officer in either of those tracts all or any of the powers conferred or conferable by or under that Code on any Magistrate in regard to particular cases or to a particular class or particular classes of cases or to cases generally. X of 1882.

Correction of schedule to Regulation IX of 1874.

102. To the first division (*acts*) of the schedule to the Arakan Hill District Laws Regulation, 1874, the enactments specified in the third schedule shall be added. IX of 1874.

Saving of Regulations in force in the Hill District of Arakan.

103. Save as expressly provided by this Act, nothing therein shall be construed to affect any Regulation in force at the commencement of this Act in the Hill District of Arakan under the Statute 33 Victoria, Chapter 3, section 1.

[a] See *supra*, p. 81.
[b] See *supra*, p. 77.
[c] See *supra*, p. 4.
[d] See *supra*, p. 153.
[e] See *supra*, p. 212
[f] See *supra*, p. 131.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(*See section 2.*)

Number and year.	Title.	Extent of repeal.
1	2	3
	Acts of the Governor General in Council.	
XVI of 1872.	Burma Spirit Duty Act, 1872 .	The whole, in so far as it may not already have been repealed.
VII of 1874.	British Burma Municipal Act, 1874.	The whole.
XVII of 1875.	Burma Courts Act, 1875 .	So much as has not been repealed.
XIII of 1877.	Burma Embankment Act, 1877[a]	The portion of section 8, beginning with the words "and nothing" and ending with the words "of this Act".
XI of 1880.	Burma Courts Act, 1880 .	The whole.
X of 1884.	Burma Courts Act, 1884 .	The whole.
XIV of 1885.	Burma Courts Act, 1885 .	The whole.
XVI of 1886.	Lower Burma Gaols Delivery Act, 1886.	The whole.
XX of 1886.	Upper Burma Laws Act, 1886[b]	So much of the second schedule as relates to Bengal Regulation XI of 1812 (*Removal of Foreign Emigrants*) and to Acts XV of 1859 (*Inventions*), XXVII of 1860 (*Collection of Debts on Successions*), XIII of 1872 (*Patterns and Designs*) and XI of 1865 (*Mufassal Small Cause Courts*).

[a] See *supra*, p. 123.

[b] See *infra*, p 368.

(*The First Schedule.—Enactments repealed. The Second Schedule.—Enactments modified.*)

THE FIRST SCHEDULE—*continued.*

Number and year.	Title.	Extent of repeal.
1	2	3
Regulations under the Statute 33 Victoria, Chapter 3, Section 1.		
IX of 1874.	Arakan Hill District Laws Regulation, 1874.[a]	The first and second paragraphs of section 4, the whole of sections 6 to 9 (both inclusive) and so much of the schedule as relates to Acts III of 1846 (*Boundary-marks*), XXXIII of 1852 (*Enforcement of Judgments*), XV of 1859 (*Patents*), VIII of 1860 (*Electric Telegraphs*), XXVII of 1860 (*Collection of Debts on Successions*), III of 1871 (*Paper Currency*), IX of 1871 (Limitation), XI of 1872 (*Foreign Jurisdiction and Extradition*) and VII of 1874 (*British Burma Municipal Act*).
VII of 1886.	Upper Burma Criminal Justice Regulation, 1886.[b]	Section 1, sub-section (*2*), of the schedule.

THE SECOND SCHEDULE.

ENACTMENTS MODIFIED.

(*See section 97.*)

Number and year.	Title.	Words to be replaced.	Words to be substituted for those replaced.
1	2	3	4
Acts of the Governor General in Council.			
IV of 1869.	Indian Divorce Act.	In section 3, clause (*1*), the words "in British Burma—the High Court of Judicature at Fort William in Bengal".	The words— "in Burma—the Special Court constituted under the Lower Burma Courts Act, 1889;"
		In section 3, clause (*2*), the words— "in the Non-Regulation Provinces, other than British Burma and Sindh—a Commissioner of a division;	The words— "in the Non-Regulation Provinces, other than Sindh and the areas for the time being comprised within the local limits of the ordinary civil jurisdiction of the

[a] See *infra*, p. 356. [b] See *infra*, p. 375.

(*The Second Schedule.—Enactments modified.*)

THE SECOND SCHEDULE—*continued.*

Number and year.	Title.	Words to be replaced.	Words to be substituted for those replaced.
1	2	3	4
	Acts of the Governor General in Council—continued.		
		in Pegu—the Recorder at Rangoon; in Arakan—the Recorder at Rangoon until a Recorder's Court is established at Akyab, and thenceforward the Recorder at Akyab; in the Tenasserim Provinces—the Recorder at Maulmain; in Sindh—the Judicial Commissioner in that Province".	Recorder of Rangoon and of the civil jurisdiction of the Court of the Judge of the Town of Maulmain—a Commissioner of a division; in Sindh—the Judicial Commissioner of that Province; in the areas aforesaid—the Recorder of Rangoon and the Judge of the Town of Maulmain, respectively;".
X of 1882.	Code of Criminal Procedure, 1882.	In section 4, clause (*j*), the words "the Senior Judge of a Chief Court:". In section 266, the words "the Chief Court of the Punjab".	The words "the Senior Judge of the Chief Court of the Punjab and the Recorder of Rangoon:". The words "the Chief Court of the Punjab, the Court of the Recorder of Rangoon,".
	Regulations under the Statute 33 Victoria, chapter 3, section 1.		
IX of 1874.	Arakan Hill District Laws Regulation, 1874.[a]	In section 5, the words from and inclusive of "Act No. XXXI of 1860" down to and inclusive of the word "but".	The words "Notwithstanding anything in the Indian Arms Act, 1878, or in any rule under that Act". XI of 1878.
VII of 1886.	Upper Burma Criminal Justice Regulation, 1886.[b]	In the schedule, section 1, sub-section (*1*), the words— "(*i*) in reference to proceedings against European British subjects, the Recorder of Rangoon; and (*ii*) in reference to proceedings against other persons".	The words "except in reference to proceedings against European British subjects or persons jointly charged with European British subjects—".

[a] See *infra*, p. 354.

[b] See *infra*, p. 375.

THE THIRD SCHEDULE.

ENACTMENTS TO BE ADDED TO SCHEDULE TO REGULATION IX OF 1874.[a]

(*See section 102.*)

Number and year.	Subject.	Extent of application.	Modifications.
*	*	*	*
XIII of 1874 .	European British Minors	The whole Act.	
XIV of 1874 .	Scheduled Districts .	The whole Act, except section 10.	
XV of 1874 .	Laws Local Extent .	The whole Act, except sections 4, 5, 6 and 7.	
V of 1875 .	Unattested Sepoys .	The whole Act.	
VII of 1875 .	Burma Fisheries .	The whole Act.	
IX of 1875 .	Majority . .	The whole Act.	

C.—REGULATIONS MADE UNDER THE STATUTE 33 VICT., CAP. 3.

THE ARAKAN HILLS CIVIL JUSTICE REGULATION, 1874.[b]

Published in the Gazette of India of 20th February, 1875, p. 76, and in the Burma Gazette of 6th March, 1875, p. 242.

Preamble.

WHEREAS by a Resolution passed by the Secretary of State in Council on the fifth day of October, 1871, the provisions of the 33rd of Victoria, chapter 3, section 1, were declared applicable to the Hill District of Arakan;

And whereas the Chief Commissioner of Lower Burma[c] has proposed to the Governor General in Council a draft of the following Regulation, together with the reasons for proposing the same;

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[a] See *infra*, p. 360.

[b] Reg. V of 1876 is to be read with and taken as part of this Regulation—see *infra*, p 361.

[c] Since Upper Burma was placed under the administration of the Chief Commissioner of Lower Burma, this officer is styled Chief Commissioner of Burma—see Proclamation, dated 25th September, 1886, Gazette of India, 25th *idem*, Part I, p. 539.

NOTE.—The Scheduled Districts Act, 1874, has not yet been declared in force in the Hill District of Arakan.

(*Preliminary. Sec. 1. Of the Courts, their Jurisdiction, and the Law to be administered by them. Sec. 2.*)

And whereas the Governor General in Council has taken such draft and reasons into consideration, and has approved of such draft, and the same has received the Governor General's assent;

In pursuance of the direction contained in the said section, the said Regulation is now published in the Gazette of India, and will be published in the local Gazette, and will thereupon have the force of law.

Preliminary.

Short title. Local extent.

1. This Regulation may be called the Arakan Hills Civil Justice Regulation, 1874; and it shall extend to the tract of country known as the Hill District of Arakan.

In this Regulation—

words importing the masculine gender include females: words in the singular include the plural, and *vice versâ*:

"person" includes any company or association or body of individuals:

"month" means month reckoned according to the British calendar:

"British India" means the territories for the time being vested in Her Majesty by the Statute 21 & 22 Vict., c. 106, other than the Settlement of Prince of Wales Island, Singapore and Malacca; and

"section" means a section of this Regulation.

Of the Courts, their Jurisdiction, and the Law to be administered by them.

Powers of the Courts.

2. The Civil Courts in the said district shall be of three grades (namely)—

The Courts of the Assistant Commissioners and Extra Assistant Commissioners;

the Court of the Deputy Commissioner; and

the Court of the Commissioner:

And the powers of such Courts, respectively, shall be as follows:—

(*a*) an Assistant or Extra Assistant Commissioner may try original cases whatever be the value or the amount of the subject-matter thereof:

(*b*) the Deputy Commissioner[a] may, except as hereinafter provided, hear appeals from all decrees and orders of the Assistant Commissioner and Extra Assistant Commissioner:

he may also remove into his own Court any original case pending in the Court of one of these officers, and dispose of it himself, or

[a] For jurisdiction of Deputy Commissioner to entertain and try all civil suits originally instituted in his own Court, see Reg. V of 1876, s. 2, *infra*, p 362.

transfer any such case from the Court of one of these officers to the Court of another:

(*c*) the Commissioner shall be the highest Court of appeal in all civil matters: he may, except as hereinafter provided, hear appeals from the decrees and orders of the Deputy Commissioner whether passed in original cases or on appeal:

he may also remove into his own Court any original case or appeal pending in any subordinate Court, and dispose of the same, or transfer any original case from any one subordinate Court to any other.

Effect of prior adjudication.

3. The Courts shall not try any suit in which the matter in issue has been heard and finally decided by a Court of competent jurisdiction in a former suit between the same parties in the same rights, or between parties under whom they or any of them claim.

Effect of pending suit.

The Courts shall not try any suit in which the matter in issue is also in issue in another suit between the same parties, or between parties under whom they or any of them claim, pending in the same or any other Court, whether superior or inferior, in British India.

Law to be administered.

4. When in any civil proceeding it is necessary for any of the Courts mentioned in section 2 to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution,

the Buddhist law in cases where the parties are Buddhists,

the Muhammadan law in cases where the parties are Muhammadans, and

the Hindu law in cases where the parties are Hindus,

shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished, or is opposed to any custom having the force of law in the said tract.

In cases not provided for by the former part of this section or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

Of Appearances, Applications and Acts by Parties.

A party may be permitted to appoint an agent;

5. The Court may in its discretion, for any sufficient reason, permit any appearance, application or act required to be made or done by a party under this Regulation to be made or done by such party through a duly authorized agent. Such permission shall in all cases be granted to persons exempt from personal appearance under sections 55 and 56.

if not so per-

6. Except with the permission of the Court granted under section 5,

(*Of Appearances, Applications and Acts by Parties. Secs. 7-8. Of the Institution of Suits. Secs. 9-12. Of the Service of Summons on Defendants. Secs. 13-16.*)

every such appearance, application or act shall be made or done by the parties in person. mitted, must appear in person.

7. The Court may, if it thinks fit in any case in which it has permitted a party not being a person exempt from personal appearance under sections 55 and 56 to appear by agent, withdraw such permission at any stage of the proceedings, recording its reasons for so doing, and require such party to attend in person. Permission to appoint agent may be withdrawn.

8. Any party required to attend in person under section 7, and failing so to attend, shall be subject to all the provisions of sections 26 to 31 applicable to parties who do not appear. Consequences of not appearing in person when required.

Of the Institution of Suits.

9. The plaintiff may commence his suit either by making to the Judge a verbal complaint which shall be reduced to writing by an officer of the Court, or by presenting a written plaint. Filing plaint or making complaint.

10. On a complaint being made or a plaint presented, the Court shall register the suit and examine the plaintiff or his agent as to the merits of his case. Examination of plaintiff.

11. If upon such examination it appears that there is no substantial cause of action or that the claim is one which from its nature is not a proper subject of litigation of a Civil Court, the Court may dismiss the suit. Summary dimissal of suit.

12. If upon such examination it is found that the plaintiff sets forth a good cause of action, the Court shall issue a summons to the defendant to appear and answer at a certain place and on a certain day. Issue of summons.

Of the Service of Summons on Defendants.

13. Service of the summons shall be made by delivering or tendering a copy thereof under the signature of the Judge and seal of the Court; and when there are more defendants than one, service of the summons shall be made on each defendant. How service shall be made. When there are several defendants.

14. Whenever it is practicable the service shall be on the defendant in person. Service to be on defendant in person.

15. When the defendant cannot be found it may be made on any adult male member of his family residing with him. Service when defendant cannot be found.

16. In all cases where the summons is served on the defendant personally, or on any person on his behalf, the person on whom the service is made shall be In all cases the person served is to

be required to endorse the summons.

But service is sufficient without.

required to sign an acknowledgment of service, to be endorsed on the original summons, or on a copy thereof under the seal of the Court. If such person refuse to sign the acknowledgment, the service of the summons shall nevertheless be held sufficient, if it be otherwise proved to the satisfaction of the Court.

Service when personal service cannot be effected.

17. When the defendant cannot be found, and there is no person on whom the service can be made, the service may be effected by fixing the copy of the summons on the outer door of the house in which the defendant is dwelling, if he is dwelling at any place within the district.

Time and manner of service to be endorsed on summons.

18. The person serving a summons shall, in all cases in which the summons has been served, endorse on the original summons, or on a copy thereof under the seal of the Court, the time when, and the manner in which, it was served.

When summons is returned unserved, Court to order substituted service, if satisfied that the defendant is avoiding service.

19. When a summons is returned to the Court without having been served, if the plaintiff satisfies the Court that there is reasonable ground for believing that the defendant is keeping out of the way for the purpose of avoiding the service of the summons, the Court shall order the summons to be served by fixing up a copy thereof upon some conspicuous place in the court-house, and also upon the door of the house in which the defendant last resided, if it be known where he last resided; or that the summons shall be served in such other manner as the Court thinks proper. And the service so substituted by order of the Court shall be as effectual as if it had been made in the manner above specified.

When service is substituted, the time for appearance to be fixed.

20. Whenever service is substituted by order of the Court by virtue of the power contained in the last preceding section, the Court shall fix such time for the appearance of the defendant as the case may require.

Service of summons when defendant resides beyond limits of district.

21. If the defendant be resident beyond the limits of the district and have no agent empowered to accept the service, the Court in which the suit is instituted shall transmit the summons for service to any Court having jurisdiction at the place where the defendant resides by which it can be most conveniently served.

Service of summons when defendant resides out of British India. Procedure in case of non-appearance of defendant.

22. If the defendant be resident out of British India and have no agent empowered to accept the service, the summons shall be addressed to the defendant at the place where he may reside and forwarded to him by post or otherwise; and if, on the day fixed for the hearing of the suit, or on any day to which the hearing may be adjourned, the defendant does not appear, the plaintiff may apply to the Court, and the Court may direct that the plaintiff shall be at liberty to proceed with his suit in such manner and subject to such conditions as the Court thinks fit.

(*Of the Service of Summons on Defendants. Sec. 23. Consequences of Non-appearance of Parties. Secs. 24-28.*)

Service on agent in charge of immoveable property.

23. When the suit is for land or other immoveable property, and the summons for any reason cannot be served on the defendant in person, the summons may be served on any agent of the defendant in charge of such property.

Consequences of Non-appearance of Parties.

If neither party appear, suit to be dismissed.

24. If, on the day fixed for the defendant to appear and answer, or any other day subsequent thereto, to which the hearing of the suit may be adjourned, neither party appears when called upon by the Court, the suit shall be dismissed.

Or if sufficient excuse for non-appearance, a fresh summons may be issued.

Whenever a suit is dismissed under this section, the plaintiff may bring a fresh suit; or, if within the period of thirty days he satisfies the Court that there was a sufficient excuse for his non-appearace, the Court may issue a fresh summons upon the plaint already filed or complaint already recorded.

If plaintiff only appear Court may, proceed *ex parte*.

25. If the plaintiff appears and the defendant does not appear and it is proved to the satisfaction of the Court that the summons was duly served, the Court shall proceed to hear the suit *ex parte*.

If defendant appears on day of adjourned hearing, he may be heard.

If the defendant appears on any subsequent day to which the hearing of the suit is adjourned, and assigns good cause for his previous non-appearance, he may, upon such terms as the Court may direct as to payment of costs or otherwise, be heard in answer to the suit in like manner as if he had appeared on the day fixed for his appearance.

If due service of summons be not proved, Court may order issue of second summons.

26. If the plaintiff appears and the defendant does not appear, and it is not proved to the satisfaction of the Court that the summons was duly served in any of the modes of service hereinbefore provided, the Court may direct a second summons to the defendant to be issued in any of the said modes.

If service was not in due time, Court may adjourn hearing and direct notice to be given to defendant.

27. If the plaintiff appears and it is proved to the satisfaction of the Court that the summons was served on the defendant, but not in sufficient time to enable him to appear and answer on the day fixed in the summons, the Court shall postpone the hearing of the suit to a future day to be fixed by the Court, and may direct notice of such day to be given to the defendant.

If defendant only appears, Court to pass judgment by default.

28. If the defendant appears and the plaintiff does not appear, the Court shall pass judgment against the plaintiff by default, unless the defendant admits the claim, in which case the Court shall pass judgment against the defendant upon such admission.

No fresh suit after such judgment.

When judgment is passed against a plaintiff by default, he shall be precluded from bringing a fresh suit in respect of the same cause of action.

Consequence of non-appearance of one or more of several plaintiffs.

29. If there are two or more plaintiffs and one or more of them appear and the other or others of them do not appear, the Court may proceed with the suit at the instance of the plaintiff or plaintiffs who appear in the same way as if all the plaintiffs had appeared, and pass such order as may be just and proper in the circumstances of the case;

Consequence of non-appearance of one or more of several defendants.

and if there are two or more defendants, and one or more of them appear and the other or others of them do not appear, the Court shall proceed with the suit to judgment, and shall at the time of passing judgment give such order, with respect to the defendant or defendants who have not appeared, as is just and proper in the circumstances of the case.

No appeal from judgments passed *ex parte* or by default.

30. No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance:

When and how judgment *ex parte* against a defendant may be set aside.

But in all cases in which judgment is passed *ex parte* against a defendant, he may apply, within a reasonable time, not exceeding thirty days after any process for enforcing the judgment has been executed, to the Court by which the judgment was passed, for an order to set it aside; and if it is proved to the satisfaction of the Court that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the judgment, and shall appoint a day for proceeding with the suit.

When and how judgment by default against a plaintiff may be set aside.

In all cases of judgment against a plaintiff by default, he may apply, within thirty days from the date of the judgment, for an order to set it aside; and, if it is proved to the satisfaction of the Court that the plaintiff was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the judgment by default and shall appoint a day for proceeding with the suit:

No judgment to be set aside without notice to opposite party.

But no judgment shall be set aside on any such application as aforesaid, unless notice thereof have been served on the opposite party.

Order for setting aside judgment shall be final.

In all cases in which the Court passes an order under this section for setting aside a judgment, the order shall be final;

An appeal from order of rejection.

but, in all cases in which the Court rejects the application, an appeal shall lie from the order of rejection to the tribunal to which the final decision in the suit would be appealable:

(*Of fixing Issues and of the Preparations for the Hearing. Secs. 31-34. Of the Hearing. Secs. 35-36.*)

Provided that the appeal be preferred within the time allowed for an appeal from such final decision. Proviso.

Of fixing Issues and of the Preparations for the Hearing.

31. If both parties or their agents are present on the day fixed for the defendant to appear and answer, or on any subsequent day to which the proceedings may be adjourned for this purpose, the Judge shall examine them with a view to ascertaining upon what questions of law and fact the parties are at issue, and, having with his own hand made a note of such examination, shall frame and record the issues of law and fact on which the right decision of the case may depend. Framing of issues.

32. If the parties are at issue on any question of fact, the Court shall then further examine them or their agents as to the evidence they intend to adduce upon such question, and shall fix a time and place for the hearing of the suit; Examination of parties as to the evidence to be adduced by them, &c.

and, upon such sums being deposited for the expenses of witnesses as the Court thinks reasonable, shall issue such summonses for the attendance of witnesses and the production of documents as the parties may desire. Issue of summons to witnesses.

33. Every summons to a witness shall be served as nearly as may be in the manner already hereinbefore provided for the service of summons on a defendant. Service of summons on witnesses.

34. If any witness on whom a summons has been so served neglects or refuses to appear at the time and place appointed, and offers no reasonable excuse for such neglect or refusal, the Court may issue a warrant to bring such witness before it to give his evidence. Witness neglecting to attend may be arrested.

Of the Hearing.

35. On the day appointed for the hearing of the suit or on some other day to which the hearing may be adjourned, the evidence of the witnesses and of any parties to the suit appearing as witnesses shall be taken by the Judge orally in open Court, and in presence of the parties. Evidence how to be taken;

Any evidence given in a language not understood by any party to a suit shall be interpreted to such party as the examination proceeds. to be interpreted.

Each party may examine the opposite party and all witnesses. Parties may examine.

36. The substance of all evidence thus taken shall be reduced to writing by the Judge as the examination proceeds, with his own hand, in English in the Courts of the Commissioner, the Deputy Commissioner and the Assistant Evidence how to be recorded.

Commissioners, and in Burmese in the Courts of the Extra Assistant Commissioners.

Court may of its own motion examine witness or require production of a document.

37. The Court may at any stage of the proceedings in a suit examine as a witness any person present in Court, or call upon him to produce any document or other thing, or summon any person to give evidence or produce any document or other thing, if it considers that the evidence of such person or the production of such document or thing is likely to aid it in the decision of the matters in dispute.

Of Commissions to take Evidence, make local Enquiries and examine Accounts.

Issue of commissions—

38. If in any case—

when witness is unable to attend;

(*a*) the evidence of a witness is required who is resident at some place far distant from the place where the Court is held, or who is unable from sickness or infirmity to attend before the Court to be personally examined, or is exempted under section 55 or section 56 from personal appearance in Court, or,

when local investigation is necessary;

(*b*) a local investigation seems requisite for elucidating any matter in dispute, or,

when accounts are to be examined.

(*c*) an examination of any accounts becomes necessary,

the Court may, if it thinks fit, issue a commission to any person delegating to him such powers and containing such instructions as it thinks necessary for the examination of such witness, or the making of such local investigation or the examination of such accounts; and such commission and the return thereto, and the depositions of any witnesses who may have been examined under such commission, and any documents filed before the Commissioner, shall form part of the record.

Of Judgment.

Delivery of judgment.

39. When the documentary evidence (if any) has been perused, the witnesses examined and the parties heard, the Court shall, either immediately or on some subsequent day of which due notice shall be given to the parties, deliver its judgment.

Judgment how to be written.

40. The judgment shall be written by the Judge with his own hand, in English in the Courts of the Commissioner, the Deputy Commissioner and the the Assistant Commissioners, and in Burmese in the Courts of the Extra Assistant Commissioners, and it shall be dated and signed by the Judge at the time it is delivered.

When to be translated.

When the judgment is written in English, it shall be translated into

Burmese, and the translation shall be signed by the Judge at the time of delivering judgment.

Judgment what to contain. Decree.

41. The judgment shall contain the decision of the Court upon each issue; together with the grounds of such decision, and shall conclude with a decree, clearly stating the relief granted or other determination of the suit:

Provided that, when the decision upon any one or more issues is sufficient for the disposal of the suit, it shall be in the discretion of the Court to abstain from pronouncing any decision upon the remaining issues.

Costs to be specified in decree.

42. The decree shall specify the costs payable and the parties by whom they are to be paid.

No allowance for remuneration of agent. Costs of serving process how calculated.

In determining the amount of costs no allowance shall be made for the remuneration of agents employed in the suit, and the costs of serving any process shall be calculated according to the actual rate of pay of the person employed to serve such process for the time during which he was occupied in serving it.

Interest may be allowed to date of decree, and from date of decree to date of payment.

43. When the suit is for a sum of money due to the plaintiff, the Court may in the decree order interest at such rate as it thinks fit to be paid on the principal sum adjudged from the date of suit to the date of decree, in addition to any interest adjudged on such principal sum for any period prior to the date of suit; with further interest on the aggregate sum so adjudged and on the costs of the suit, from the date of the decree to the date of payment.

Court may order payment by instalments.

44. In all decrees for the payment of money the Court may for any sufficient reason order that the amount shall be paid by instalments with or without interest.

Decree for delivery of moveable property to fix a sum payable as alternative.

45. When the suit is for moveable property, if the decree be for the delivery of such property, it shall further fix an amount of money to be paid as an alternative if delivery cannot be enforced.

Copies of judgment to be furnished to parties.

46. Certified copies of the judgment, and, in cases where the judgment is required to be translated, of the translation thereof, shall be furnished to the parties on application and payment by them of the expenses of preparing such copies.

Of special Courses of Procedure to be followed in certain Cases.

Arrest and attachment before judgment when defendant seeks to

47. If the Court at any stage of the proceedings before judgment, is satisfied upon such enquiry as it may consider necessary that the defendant, with intent to avoid or delay the plaintiff, or to obstruct or delay the execution of any judgment that may be passed against him, is about to leave the jurisdic-

evade proceedings.

tion of the Court or to dispose of any property or remove any moveable property from the jurisdiction of the Court, it may issue its warrant for the apprehension of the defendant or the attachment of his property, or both, and may, unless the defendant gives security for the satisfaction of any judgment that may be pronounced against him, detain him in custody and his property under attachment until judgment is pronounced.

Security may be required from defendant about to leave British India.

48. If the Court at any stage of the proceedings before judgment, is satisfied, upon such enquiry as it may deem necessary, that the defendant is about to leave British India, with intent to remain absent so long that the plaintiff will or may be thereby obstructed or delayed in the execution of any judgment that may be passed, it may call upon the defendant to furnish security for the satisfaction of any judgment that may be pronounced against him; and unless he furnishes such security may commit him to custody until judgment is pronounced.

Injunction against waste, damage or alienation of property in dispute.

49. If the Court at any stage of the proceedings before judgment, is satisfied, upon such enquiry as it may deem necessary, that any property which is in dispute in the suit is in danger of being wasted, damaged or alienated by any party to the suit, it may issue an injunction to such party commanding him to refrain from doing the particular act complained of, or give such orders for the purpose of staying and preventing him from wasting, damaging or alienating the property, or for the care and custody thereof, as it deems fit.

Injunction against breach of contract or committal of injury.

50. In any suit for restraining the defendant from the committal of any breach of contract or other injury, the Court may at any time after the commencement of the suit, whether before or after judgment, and on such terms as it deems fit, issue an injunction restraining the defendant from the repetition or continuance of the breach of contract or wrongful act complained of, or the committal of any similar breach of contract or injury; and in case of disobedience such injunction may be enforced by imprisoning the defendant in the civil jail until he obeys the injunction.

Power to vary or set aside orders made under preceding sections, and to adjudge compensation.

51. The Court may at any time vary or set aside any order made by it under any one of the four last preceding sections; and, if it is satisfied that any such order has been applied for and procured by any party on grounds known to such party to be insufficient, it may award against such party in its decree such amount, not exceeding two hundred rupees, as it may deem a reasonable compensation to the party aggrieved by such order.

Subsistence-money for defendant imprisoned.

52. When a defendant is committed to custody under section 47, 48 or 50, the plaintiff shall be required to advance money for the subsistence of such defendant as provided by section 62 in the case of a judgment-debtor committed to prison.

(Of special Courses of Procedure to be followed in certain Cases. Secs. 53-54. Miscellaneous. Secs. 55-59.)

CAL SECRETA... RARY.

53. If at any hearing of a suit it appears to the Court desirable that any person not already a party to such suit should be made a party thereto, it may direct that such person shall be made a plaintiff or defendant as the case may be. Power to add parties.

In such case the Court shall issue a notice to such person in the manner provided for the service of a summons on a defendant.

54. All suits involving any of the questions mentioned in section 3 shall be heard with the aid of assessors selected by the Court from the class to which the parties belong. Certain suits to be tried with the aid of assessors.

Miscellaneous.

55. Women who, according to the custom and manners of the class to which they belong, ought not to be compelled to appear in public shall be exempt from personal appearance in Court, whether as parties or witnesses. Certain women exempted from appearing in person.

56. The Chief Commissioner may, at his discretion, exempt from personal appearance in Court, whether as a party or as a witness, any person whose rank appears to entitle him to such exemption, and may withdraw the privilege so accorded. Chief Commissioner may grant exemption from appearing in person.

57. Summonses and all other process of the Court shall be issued without requiring any previous payment of fees, the cost of service or execution being recovered eventually from the party declared liable under section 42 to pay the same, by attachment and sale of his moveable property and imprisonment of his person as if a decree for the amount had been passed against him in favour of the Deputy Commissioner. Process to be issued without requiring prepayment of fees.

58. All documents other than entries in books admitted as evidence in a suit shall be filed with the record and shall not be returned to the parties without the express permission of the Court. A duly authenticated copy of any document so returned shall be filed with the record. Documents admitted in evidence or copies thereof to be filed.

When any party desires to put in evidence an entry in a shop-book or other book, he shall produce the book to the Court together with a copy of the entry on which he relies. The Court shall forthwith mark the entry for the purpose of identification, and, having examined and compared the copy with it, shall file such copy with the record, and shall, unless it sees reason to impound it, return the book to the party producing the same.

59. Except as otherwise specially provided, the Courts in hearing appeals and executing decrees, and in all miscellaneous civil proceedings, may exercise all the powers conferred on them in respect of original suits, and shall follow Courts may exercise the powers conferred in

respect of original suits, and shall follow the procedure prescribed for such suits.

the procedure prescribed for such suits in so far as the same may be found applicable.

Of the Execution of Decrees.

Execution of decrees—

60. The Court shall, upon the application of the decreeholder made verbally or in writing, execute its decrees in the following manner, that is to say:—

for property;

(*a*) a decree for any property in the possession of the judgment-debtor, by giving possession of such property to the decreeholder;

or, when the property is moveable and possession of it cannot from any cause be given, levying in the manner next hereinafter provided the amount fixed as an alternative under section 45;

for partition;

(*b*) a decree for partition, by dividing the property and giving the decreeholder possession of his portion;

for money;

(*c*) a decree for money, by arrest and imprisonment of the judgment-debtor;

or by attaching his moveable property and selling it by auction, or by both;

for the performance of an act by the judgment-debtor.

(*d*) a decree for the performance of any act by the judgment-debtor, by arrest and imprisonment of the judgment-debtor or by attaching his moveable property and retaining it under attachment, or by both;

Limit to period of imprisonment.

But, except as hereinafter provided, no person shall be imprisoned in execution of a decree for money for a longer period than three months, or after he has satisfied the Court that he has done his best to discharge the debt, and that he has no property remaining against which execution can be had.

Imprisonment of judgment-debtor attempting to evade execution.

61. If it appears in the course of the execution of any decree for money that the judgment-debtor had before the passing of such decree, or has since, concealed any property, or his interest therein, or fraudulently transferred or removed any property, or committed any other act of bad faith with a view to obstructing or delaying execution, the imprisonment in execution of such decree may extend to six months, and the judgment-debtor shall not be released on the ground of his inability to satisfy the decree.

Subsistence-money for judgment-debtor imprisoned to be paid by decreeholder.

62. When a judgment-debtor is committed to prison, the Court shall from time to time fix whatever monthly allowance it deems sufficient for his subsistence, not being less than one anna or more than four annas per day, and such allowance shall be paid by the decreeholder in advance on the first day of each month, beginning with the day on which the judgment-debtor is committed to prison.

If the plaintiff omit to pay the allowance, the judgment-debtor shall be released.

Recovery of subsistence-money and other costs of execution.

63. The amount of subsistence-allowance advanced by a decreeholder and all other costs of execution shall be added to the amount of the decree and recovered therewith.

Decree against sureties.

64. Whenever a person has become liable as security for the performance of a decree or of any part thereof, the decree may be executed against him to the extent to which he has rendered himself liable, in the same manner as a decree may be enforced against a defendant.

Execution of *ex parte* decrees.

65. When an application is made for the execution of an *ex parte* decree, the Court may, in its discretion, before ordering execution, require the applicant to give security for compensation for any injury that may be done in the course of such execution, or may issue a notice to the judgment-debtor to show cause why the decree should not be executed.

Execution of a decree out of the jurisdiction of the Court.

66. If a decree cannot be executed within the jurisdiction of the Court whose duty it is to execute the same, such Court may transmit to any other Court a copy of the decree together with a certificate that satisfaction of such decree has not been obtained by execution and a copy of any order for execution of such decree that may have been passed, and may request the Court to which such copies and certificate are transmitted to execute the decree as if it were a decree made by itself.

Execution of a decree of a Court beyond the limits of the district.

On receiving similar copies and a similar certificate and requisition from any Civil Court within any part of British India beyond the limits of the district, or established by the authority of the Governor General in Council in the territories of any foreign Prince or State, for the execution of a decree made by such Court, the Deputy Commissioner or any of the officers hereinbefore mentioned, to whom he may transfer the matter for disposal, may execute such decree as if it had been made by himself.

Of Appeals and Reviews.

Appeal how made.

67. Appeals shall be made in the form of a memorandum accompanied by a copy of the decision appealed against, and shall be presented within six weeks from the date of such decision. The period of six weeks shall be reckoned from and exclusive of the day on which the decision was pronounced and also exclusive of such time as may be requisite for obtaining a copy of such decision.

Within what period to be presented.

Where to be presented.

An appeal may be presented either to the Appellate Court or to the Court from whose decision it is made for transmission to the Appellate Court.

The appellant to be heard.

68. The Appellate Court on receiving the memorandum of appeal shall fix a time and place for hearing the appellant, and shall notify the same to the appellant.

Appeal presented after expiry of period allowed to be dismissed.

69. If the appeal has been presented after the expiration of the period allowed by section 67, and the appellant is unable to show any sufficient cause for the delay, the Appellate Court shall dismiss the appeal.

When no grounds are shown, the appeal may be summarily dismissed.

70. If after hearing the appellant, and, if it deems it necessary to do so, referring to the proceedings of the lower Court, the Court is of opinion that there is no substantial ground of appeal, it shall dismiss the appeal.

Issue of summons to respondent.

71. If the appeal is not dismissed under either of the two last preceding sections, the Court shall summon the respondent to appear and answer on a certain day and at a certain place, and, after hearing both parties on the day so fixed or on some subsequent day to which the proceedings may be adjourned, shall pronounce its judgment.

Hearing of appeal.

Judgment.

Staying execution of decision under appeal.

72. The Appellate Court may, on an appeal being preferred and sufficient cause shown, issue an order to stay the execution of the decision under appeal; but before issuing any such order it shall in all cases require security to be given for the due performance of the decree or order it may ultimately make.

Power to take additional evidence on appeal.

Power to remand the case.

73. The Appellate Court may in its discretion itself take additional evidence in any case or may remand the case to the Court whose decision is appealed against or to any other Court with a view to further enquiry being made or additional evidence taken by such Court.

Whenever a case is thus remanded the order of remand shall be written by the Appellate Judge with his own hand, and shall contain a detailed statement of the grounds on which it is made and of the particular points in which further enquiry is directed or additional evidence required.

Execution of decrees and orders of Appellate Courts.

74. Every decree or order of an Appellate Court shall be transmitted to the Court of first instance, and shall be executed by such Court as if it were its own.

Commissioner's power of review.

75. The Commissioner may for any sufficient reason review any decree or order passed by himself and from which no appeal has been preferred to Her Majesty in Council.

When other Courts may review.

No Court below that of the Commissioner shall review any decree or order made by it except for the purpose of correcting a clerical error or other error, manifestly the result of an oversight, without previously obtaining the permission of the Court to which an appeal would lie from such decree or order.

Power to call up appeals

76. The Judicial Commissioner of Lower Burma may call up any appeal

pending in the Court of the Commissioner, and proceed to try the case as if it were an appeal instituted in his own Court. pending before Commissioner.

The Judicial Commissioner shall send to the Court of the Commissioner a copy of his judgment in any case tried under this section, and the said Court shall dispose of the case in conformity with such judgment.

Of pending Cases.

77. All cases pending in the Hill District of Arakan at the time of the passing of this Regulation shall be disposed of by such of the Courts hereinbefore mentioned as the Chief Commissioner may direct, and shall be dealt with as nearly as may be in accordance with the provisions of this Regulation : Pending cases how disposed of.

But if in any such case it appears to the Court that the application of any provision herein contained would deprive any party of any right which, but for the passing of this Regulation, would have belonged to him, the Court may proceed according to the law in force before the passing of this Regulation.

Of Rules of Practice.

78. The Commissioner* may from time to time, with the previous sanction of the Chief Commissioner of Lower Burma,[a] make general rules consistent with this Regulation for regulating the practice and proceedings of his own Court and the Civil Courts subordinate thereto. Power to make rules of practice.

THE ARAKAN HILL DISTRICT LAWS REGULATION, 1874.

Published in the Gazette of India of 20th February, 1875, p. 83, and in the Burma Gazette of 6th March, 1875, p. 249.

WHEREAS by a Resolution passed by the Secretary of State in Council on the fifth day of October, 1871, the provisions of the thirty-third of Victoria, chapter three, section one, were declared applicable to the Hill District of Arakan; Preamble.

and whereas the Chief Commissioner of Lower Burma[a] has proposed

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* Since Upper Burma was placed under the administration of the Chief Commissioner of Lower Burma, this officer is styled Chief Commissioner of Burma—see Proclamation, dated 25th September, 1886, Gazette of India, 25th *idem*, Pt. I, p. 539.

to the Governor General in Council a draft of the following Regulation, together with the reasons for proposing the same;

and whereas the Governor General in Council has taken such draft and reasons into consideration, and has approved of such draft, and the same has received the Governor General's assent:

In pursuance of the direction contained in the said section, the said Regulation is now published in the Gazette of India and will be published in the local Gazette, and will thereupon have the force of law.

Preliminary.

Short title.

1. This Regulation may be called the Arakan Hill District Laws Regulation, 1874;

Local extent.

And it shall extend to the tract of country known as the Hill District of Arakan.

Repeal of enactments.

2. Except as hereinafter provided, all Regulations of the Bengal Code and all Acts of the Governor General in Council, in so far as they apply to the said district, are repealed:

But not so as to revive any enactment repealed, or to affect anything done, or any offence committed, or any fine or penalty incurred or any proceedings commenced, before the passing of this Regulation.

Acts and Regulations in force.

Acts and Regulations in force.

3. The Acts and Regulations mentioned in the schedule hereto annexed shall be held to extend to the said district to the extent and subject to the modifications indicated respectively in the third and fourth columns of the same schedule.

Functions of High Court to be discharged by Commissioner.

4.[a] The functions of the High Court in all civil and miscellaneous matters shall be discharged by the Commissioner. XI of 1878.

Licenses to manufacture or deal in arms.

5. [b]Notwithstanding anything in the Indians Arms Act, 1878, or in any rule under that Act[b] no license to manufacture or deal in arms or ammunition shall be granted without the express sanction of the Chief Commissioner.

6-9. [*Spirituous Liquors and intoxicating Drugs.*] *Rep. by Act XI of 1889, s. 2 (1).*

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[a] The first and second paras. of s. 4, repealed by Act XI of 1889, s 2 (*1*), have been omitted.
[b-b] These words have been substituted by Act XI of 1880, s. 97—see *supra*, p 337.

Assessment and Collection of Revenue.

Assessment of measured lands.

10. Measured land in the plains shall be assessed at rates varying from eight annas to one rupee an acre at the discretion of the Deputy Commissioner subject to appeal to the Commissioner; but no assessment on such land once made shall be altered without the sanction of the Commissioner.

Rate on toungyas.

11. Every toungya shall be taxed at the rate of one rupee for each family of the cultivators.

Levy of tribute.

12. Tribute at the rate of one rupee per family shall be levied—

(*a*) from all tribes and villages which have hitherto paid tribute;

(*b*) from all tribes and villages which have hitherto paid the capitation-tax.

Abolition of capitation-tax.

The capitation-tax is hereby abolished.

Power to alter rates of taxation.

13. The Chief Commissioner may from time to time, by notification in the Burma Gazette, alter the rates of any of the taxes mentioned in the three last preceding sections.

Exemption of certain villages and tribes from taxation.

14. Nothing contained in any of the said sections shall authorize the imposition of any of the said taxes in any village or upon the members of any tribe which has hitherto been treated as exempt from all taxation.

Miscellaneous.

Boatmen to declare contents of boats.

15. Boatmen proceeding up the river Kuladan shall declare the contents of their boats at Myouktoung to such official there as the Deputy Commissioner may from time to time, by a written order affixed to the jetty and walls of the court-house at that station, direct.

Power to search and seize spirits, &c., unprotected by pass.

16. The official thus appointed may search any boat proceeding up the said river whenever he sees reasonable grounds for doing so, and may seize all spirit manufactured out of the district, opium, ganja, ammunition and arms not protected by a pass from the Deputy Commissioner which he may find therein.

Any articles so seized may be confiscated by order of the Deputy Commissioner or of an Assistant or Extra Assistant Commissioner.

The order passed in every such case and the grounds thereof shall be recorded by the officer passing it.

Penalty for carrying prohibited articles.

17. The head boatman of every boat in which any of the articles mentioned in the last preceding section is carried without a pass shall be liable to a fine

not exceeding one hundred rupees, or, in default of payment, to fifteen days' simple imprisonment.

Recovery of fines.

18. The provisions of sections 63 to 70, both inclusive, of the Indian Penal Code, and of sections 386 to 389 of the Code of Criminal Procedure, 1882,[a] shall apply to all fines imposed under this Regulation. XLV of 1860. X of 1882.

THE SCHEDULE ABOVE REFERRED TO.

(*See section 3.*)

I.—Acts.[b]

No. and year.	Subject.	Extent of application.	Modifications.
IV of 1837	Power to hold land.	The whole Act.	
XXXII of 1839	Interest . .	Ditto.	
XIX of 1841	Curators . .	The whole Act, except sections 16 and 20.	*For* "Judge of the Court of the District" and "Judge" *read* "Deputy Commissioner"; *for* "Sudder Dewany Adawlut" *read* "Judicial Commissioner;" and *for* "Collector" *read* "Deputy Commissioner".
V of 1843	Slavery . .	The whole Act.	
XVIII of 1850	Protection of Judicial Officers.	Ditto.	
XIX of 1850	Apprentices . .	Ditto.	
XXI of 1850	Non-forfeiture of rights by loss of caste.	Ditto . .	*For* "territories subject to the Government of the East India Company" and "the said territories" *read* "British India"; and *for* "Courts of the East India Company" *read* "Courts of British India".

[a] The reference to the new Code of Criminal Procedure in s. 18 has been substituted—see Act X of 1882, s. 3.

[b] The references to the following Acts have been omitted from this Schedule as they were, respectively, repealed, as follows:—

Act XVIII of 1841—by Act XI of 1878, s. 3.

Acts III of 1846, XXXIII of 1852, XV of 1859, VIII of 1860, XXVII of 1860, III of 1871, IX of 1871, XI of 1872 and VII of 1874. } by Act XI of 1889, s. 2 (*l*).

Acts VII of 1865 and VII of 1869—by Act XIX of 1881, s. 2

Acts II of 1869, X of 1872 and XI of 1874—by Act X of 1882, s. 2.

THE SCHEDULE—*continued.*

Acts—continued.

No. and year.	Subject.	Extent of application.	Modifications.
XXXIV of 1850	State-prisoners .	The whole Act.	
XXXVII of 1850	Inquiries into behaviour of Public Servants.	Sections 2 to 22 (both inclusive) and section 25.	*For* "Government" and "the Government" *read* "the Chief Commissioner". *For* "the East India Company" *read* "Government". *For* "perjury" *read* "giving false evidence in a judicial proceeding". In section 8, *for* "given to Civil and Criminal Courts by Act XXX, 1841," *read* "for the time being possessed by Civil and Criminal Courts".
VIII of 1851	Tolls on roads and bridges.	The whole Act.	
XXX of 1852	Naturalization of aliens.	Ditto.	
II of 1853	Burdens on land .	Ditto.	
XIII of 1855	Compensation for death caused by actionable wrong.	Ditto.	
XXXIV of 1855	Enforcement of judgments of Charter Courts.	Ditto.	
XV of 1856	Remarriage of Hindu Widows.	Ditto.	
II of 1857[a]	State-offences .	Ditto.	
III of 1858	State-prisoners .	Sections 2 and 5.	
XXXV of 1858	Lunatics . .	The whole Act, except section 1.	*For* "Supreme" *read* "High"
XXXVI of 1858	Lunatic Asylums	The whole Act.	
XL of 1858[b]	Minors . .	The whole Act, except section 1.	
XLV of 1860	Penal Code . .	The whole Act.	

[a] *Sic*, read XI of 1857.
[b] See *supra*, p. 81.

THE SCHEDULE—*continued.*

Acts—continued.

No. and year.	Subject.	Extent of application.	Modifications.
V of 1861	Police . .	The whole Act, except section 11.	
IX of 1861	Minors . .	The whole Act.	
XXIII of 1863	Claims to waste-lands.	Ditto.	
III of 1864	Foreigners . .	Ditto	
III of 1865	Carriers . .	Ditto . .	In sections 6 and 7, *for* "Act XXII of 1863 (*to provide for taking land for works of public utility to be constructed by private persons or companies, and for regulating the construction and use of works on land so taken*), *read* "The Land Acquisition Act, 1870.
X of 1865	Succession . .	The whole Act (except sections 329, 330 and the schedule), but not so as to affect Native Christians.	
XXI of 1865	Intestate Succession to Pársís.	The whole Act.	
XIV of 1866	Post Office . .	Ditto.	
XXI of 1866	Dissolution of Marriages of Converts.	The whole Act, except so much of section 7 as relates to a stamp.	
III of 1867[a]	Public Gambling .	The whole Act .	In section 17, *for* "sixty-one" *read* "three hundred and seven".
XXXII of 1867[b]	Chief Commissioner's Powers.	Ditto.	
I of 1868	General Clauses .	The whole Act, except sections 7 and 8.	

[a] See *supra*, p. 7.

[b] See *supra*, p. 13.

THE SCHEDULE—*continued.*

Acts—continued.

No. and year.	Subject.	Extent of application[a]	Modifications.
IV of 1869	Divorce . .	The whole Act, except so much of sections 47 and 49 as relates to stamps.	
V of 1869	Native Articles of War.	The whole Act, except the first three clauses of Part I, para. (*c*).	
XV of 1869	Prisoners' Testimony.	The whole Act.	
VIII of 1870	Murder of female infants.	Ditto.	
X of 1870	Land Acquisition .	The whole Act, except the last eighteen words of section 58.	
XXIII of 1870	Coinage . .	The whole Act, except section 2 and the schedule.	
XXVI of 1870	Prisons . .	The whole Act.	
XXVII of 1870	Penal Code Amendment.	Ditto.	
I of 1871	Cattle-trespass .	Ditto.	
V of 1871	Prisoners . .	The whole Act, except sections 2 to 15 (both inclusive) and the schedule.	
XXIII of 1871	Pensions . .	The whole Act, except sections 1 and 2 and the schedule.	
I of 1872	Evidence . .	The whole Act as amended by Act XVIII of 1872.	

[a] See *supra*, p. 17.

THE SCHEDULE—*continued.*

Acts—concluded.

No. and year.	Subject.	Extent of application.	Modifications.
IX of 1872	Contract . .	The whole Act.	
XV of 1872	Christian Marriage.	Ditto.	
XVIII of 1872	Evidence Act Amendment.	The whole Act, except section 12.	
XIX of 1872	Definition of "Coin"	The whole Act.	
V of 1873	Government Savings Banks.	Ditto.	
X of 1873	Oaths . . .	The whole Act, except section 2 and the schedule.	
II of 1874	Administrator General's Act.	The whole Act.	
III of 1874	Married Women's property.	Ditto.	
IV of 1874	Foreign Recruiting.	Ditto.	
IX of 1874	European Vagrancy	Ditto.	
XIII of 1874[a b]	European British Minors.	The whole Act.	
XIV of 1874[a]	Scheduled Districts	The whole Act, except section 10.	
XV of 1874[a]	Laws Local Extent	The whole Act, except sections 4, 5, 6 and 7.	
V of 1875[a]	Unattested Sepoys .	The whole Act.	
VII of 1875[a c]	Burma Fisheries .	Ditto.	
IX of 1875[a]	Majority . .	Ditto.	

[a] These Enactments have been added to the Schedule by Act XI of 1889, s. 102—see *supra*, p.
[b] See *supra*, p. 86.
[c] See *supra*, p. 97.

SCHEDULE—*continued.*

II.—Bengal Regulations.

No. and year.	Subject.	Extent of application.	Modifications.
X of 1804[a]	Punishment by Court-Martial.	The whole Regulation, except section 1.	In section 2, *for* "the British territories subject to the Government of the Presidency of Fort William" *read* "the Arakan Hill District", and in section 4, *omit* "or before any special Court appointed for the trial of such offences under Regulation IV, 1799, and Regulation XV, 1803."
XI of 1812[b]	Removal of Foreign Emigrants.	The whole Regulation, except section 1.	In section 2, *for* "Arakan or emigrants from any other State" *read* "any Foreign State". In section 5, *for* "Court of Circuit" and "Judge of Circuit" *read* "Deputy Commissioner", and *for* "Nizamut Adawlut" *read* "through the Commissioner to the Chief Commissioner".
III of 1818[c]	State-prisoners	The whole Regulation.	

REGULATION No. V OF 1876.

A Regulation to amend the Arakan Hills Civil Justice Regulation, 1874.

Published in the Gazette of India of 19th August, 1876, p. 437, and in the Burma Gazette of 9th September, 1876, p. 179.

Preamble. WHEREAS doubts have been raised as to the jurisdiction of the Deputy Commissioner of the Hill District of Arakan to try civil suits originally instituted in his own Court: For the purpose of precluding such doubts, it is hereby enacted as follows:—

Short title. 1. This Regulation may be called the Arakan Hills Civil Justice Amendment Regulation, 1876:

This Regulation to be read with the Arakan Hills Civil Justice Regulation, 1874. And it shall be read with, and taken as part of, the Arakan Hills Civil Justice Regulation, 1874.[d]

VIII of 1874.

[a] See *supra*, p. 78.
[b] See *supra*, p. 1.
[c] See *supra*, p. 4.
[d] See *supra*, p. 638.

Original civil jurisdiction of Deputy Commissioner of Hill District of Arakan.

2. The Deputy Commissioner of the Hill District of Arakan shall have, and shall be deemed from the sixth day of March, 1875 (being the date on which the said Arakan Hills Civil Justice Regulation, 1874, came into force) to have had, jurisdiction to entertain and try all civil suits originally instituted in his own Court. VIII of 1874.

PART III.

LOCAL ENACTMENTS IN FORCE IN UPPER BURMA ONLY.

A.—LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

ACT No. XX of 1886.

(Received the Governor General's assent on the 24th September, 1886.)

An Act to declare the law in force in Upper Burma.

WHEREAS the territories which were formerly governed by King Thebaw have become part of British India;[a]

And whereas it is expedient to declare the law in force in those territories, and for this purpose to distinguish between those territories and the territories which were under the administration of the Chief Commissioner of British Burma on the thirty-first day of December, 1885;

It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Upper Burma Laws Act, 1886.

(*2*) This section and sections 2, 3, 4 and 5 shall come into force at once, and the rest of the Act shall come into force on such date (hereinafter called the commencement of this Act), within four months from the passing of the Act, as the Local Government may, by notification in the official Gazette, appoint in this behalf.[b]

Constitution of Province of Burma.

2. (*1*) The following territories shall constitute a province to be known as Burma, namely:—

(*a*) the territories formerly governed by King Thebaw, which shall be known as "Upper Burma"; and

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[a] The territories of King Thebaw became part of Her Majesty's dominions from the 1st January, 1886—see Proclamation of that date, Gazette of India, 2nd *idem*, Pt. 1, p. 1, and part of British India from the 26th February, 1886—see Notification, No. 791E., dated 4th May, 1886, Gazette of India, 8th *idem*, Pt I, p. 311.

[b] The rest of the Act came into force on the 29th November, 1886—see Burma Gazette, 27th *idem*, Pt. I, p. 360.

(*b*) the territories administered by the Chief Commissioner of British Burma on the thirty-first day of December, 1885, which shall be known as "Lower Burma".

(*2*) The Local Government, with the previous sanction of the Governor General in Council, may from time to time, by notification in the official Gazette, transfer any portion of Upper Burma to Lower Burma[a], or any portion of Lower Burma to Upper Burma, with effect from a date to be specified in the notification, and on and from that date the portion so transferred shall form part of Lower Burma or Upper Burma, as the case may be.

(*3*) When any portion of Upper Burma is transferred to Lower Burma, the Scheduled Districts Act, 1874[b], shall, unless the Governor General in Council otherwise directs, continue to be in force therein. XIV of 1

(*4*) When any portion of Lower Burma is transferred to Upper Burma, the Governor General in Counil may direct that that Act shall come into force therein.

Division of Upper Burma into divisions, districts, subdivisions, townships and circles.

3. The Local Government may, for administrative purposes,—

(*a*) with the previous sanction of the Governor in Council, divide Upper Burma into divisions, and each of those divisions into districts, and from time to time vary the limits of those divisions and districts and,

(*b*) of its own authority, divide each of those districts into sub-divisions, each of those subdivisions into townships and each of those townships into circles, and from time to time vary the limits of those subdivisions, townships and circles.

Construction of expressions "British Burma Gazette", "British Burma" and "Burma" in existing enactments.

4. Where in any enactment in force at the passing of this Act in the territories referred to in section 2, sub-section (*1*), clause (*b*), there occurs the expression "British Burma Gazette" or the expression "British Burma" or "Burma" except where the expression "Burma" occurs in the Petroleum Act, 1886, section 3, it shall be construed as referring to the Burma Gazette or to Lower Burma, as the case may be. XII of 1

Repeal of enactments.

5. The enactments specified in the first schedule to this Act, having been rendered unnecessary by the incorporation of Upper Burma in British India, are repealed to the extent mentioned in the third column of the schedule.

Law in force in Upper Burma ex-

6. (*1*) Subject to the provisions of any Regulation under the Statute 33 Victoria, chapter 3, so much of each of the enactments specified in the second

[a] For Notifications under s. 2 (*2*) transferring portions of Upper Burma to Lower Burma, see Appendix, Pt. II, *infra*, p. 496.

[b] For Notifications under the Scheduled Districts Act, 1874, extending enactments to portions of Upper Burma transferred to Lower Burma, see Appendix, Pt. II, *infra*, p. 497.

schedule to this Act as is at the commencement of this Act in force in any part of Lower Burma which is not included in a scheduled district as defined of 1874. in the Scheduled Districts Act, 1874, shall be deemed to be in force in Upper Burma generally, or in the Town of Mandalay only, according as the enactment is specified in the First or Second Part of the schedule.[a] clusive of the Shan States.

(*2*) An enactment not specified in that schedule shall not be deemed to be or to have been in force in Upper Burma or in any part of Upper Burma unless it is expressed, by special mention of Upper Burma or a part of Upper Burma, to extend thereto, or, after the commencement of this Act, is extended thereto in exercise of the powers conferred by section 5 of the Scheduled Districts Act, 1874,[b] or by any other enactment for the time being in force.

(*3*) The Local Government may from time to time, with the previous sanction of the Governor General in Council, by notification in the official Gazette, declare that any enactment which is specified in that schedule or which may hereafter be extended in exercise of any such powers as aforesaid, shall no longer be in force in Upper Burma or in any part of Upper Burma specified in the notification.

(*4*) The limits of the Town of Mandalay for the purposes of this Act shall be the limits for the time being of the local area subject to the ordinary original jurisdiction of the Civil Court of Mandalay.[c]

(*5*) This section does not extend to the Shan States.

Modification of certain enactments in force in Upper Burma exclusive of the Shan States.

7. (*1*) The following enactments specified in the First Part of the second schedule to this Act shall, in Upper Burma, be read subject to the following modifications, namely:—

(*a*) in Act VIII of 1851 (*an Act for enabling Government to levy Tolls on Public Roads and Bridges*), for the last sixteen words of section 4, the words "or of any person or property exempted by order of the Local Government from payment of tolls" shall be substituted;

(*b*) in Act V of 1861 (*an Act for the Regulation of Police*), to section 2 the words "All Thugyis and Myothugyis for the time being holding office shall be police-officers, and shall be deemed to have been formally enrolled under this Act" shall be added;

(*c*) in Act VI of 1864 (*an Act to authorize the punishment of Whipping in*

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[a] S. 6 (*1*) has been modified in so far as it relates to the Indian Limitation Act, 1877—see Reg. X of 1887, s. 5, *infra*, p. 450.

[b] For a list of enactments extended to Upper Burma under s. 5 of the Scheduled Districts Act, 1874, see Appendix, Pt. I, *infra*, p. 489.

[c] As to limits of area subject to the ordinary original jurisdiction of the Civil Court of Mandalay, see footnote to s. 10 (*2*) of the Upper Burma Civil Justice Regulation, 1886, *infra*, p. 386.

certain cases), after section 5 the section and schedule in the third schedule to this Act shall be added;

(*d*) in the Indian Evidence Act, 1872, after the words "police-officer" in section 25 the words "who is not a Magistrate" shall be inserted; I of 1872.

(*e*) in the Dramatic Performances Act, 1876, the words "within such area" shall be omitted from the third paragraph of section 10, and for the first two paragraphs of that section the following shall be substituted, namely:— XIX of 1

"No dramatic performance shall take place except under a license granted by the District Magistrate or such officer as the District Magistrate may appoint in this behalf.

"Any person who promotes or takes part in any dramatic performance in contravention of the foregoing portion of this section shall be punishable, on conviction before a Magistrate, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both."

(*2*) This section does not extend to the Shan States.

Law in the Shan States.

8.[a] (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, from time to time extend[b] to all or any of the Shan States any enactment which is in force in any part of Upper Burma at the date of the extension, and at any time withdraw all or any of those States from the operation of any enactment so extended.[c]

(*2*) Unless and until extended under sub-section (*1*), an Act of the Governor General in Council shall not be in force in any Shan State.

(*3*) The Local Government, with the previous sanction of the Governor General in Council, may from time to time, by notification in the official Gazette, declare what territories constitute the Shan States for the purposes of this and the two last foregoing sections.[d]

Power for Courts to construe enactments with necessary alterations.

9. For the purpose of facilitating the application of any enactment for the time being in force in Upper Burma, any Court in Upper Burma may construe the enactment with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the Court.

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[a] As to administration of the Shan States by their own Chiefs and under their own laws, see Act XV of 1888, s. 3, *infra*, p. 372.

[b] For power to declare such extension under s. 8 (*1*) to be subject to restrictions and modifications, see Act XV of 1888, s. 5, *infra*, p. 373.

[c] For Notifications under s. 8 (*1*) extending enactments to the Shan States, see Appendix, Pt. III, *infra*, p. 500 *et seq.*

[d] For Notification under s. 8 (*3*) declaring what territories constitute the Shan States, see Appendix, Pt. III, *infra*, p. 499.

Validation of acts done after 17th November, 1885.

10. All acts of executive authority, proceedings, decrees and sentences which have been done, taken or passed in Upper Burma since the seventeenth day of November, 1885, and before the commencement of this Act[a], by any officer of the Government, or by any person acting under his authority or otherwise in pursuance of an order of the Government, or which have been or shall be ratified by the Local Government, shall be as valid and operative as if they had been done, taken or passed in accordance with law; and no suit or other proceeding shall be maintained or continued against any person whatever on the ground that any such acts, proceedings, decrees or sentences were not done, taken or passed in accordance with law.

Validation of rules made before commencement of this Act.

11. All rules, orders or instructions made or issued after the seventeenth day of November, 1885, and before the commencement of this Act,[a] for the guidance of officers engaged in the administration of Upper Burma shall be deemed to have had the force of law, and shall, so far as they are consistent with this Act, continue to have the force of law until they are withdrawn, or are superseded by any Act of the Governor General in Council, or by any Regulation under the Statute 33 Victoria, chapter 3, or by any enactment extended to Upper Burma, or by any rules, orders or instructions made or issued under any such Act, Regulation or enactment.

THE FIRST SCHEDULE.

(*See section 5.*)

ENACTMENTS REPEALED.

Number and year.	Subject.	Extent of repeal.
1	2	3
Act XXX of 1854 .	An Act to provide for the levy of Duties of Customs in the Arakan, Pegu, Martaban and Tenasserim Provinces.	So much as has not been repealed.
Act IV of 1863 . .	An Act to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor General of India, and His Majesty the King of Burma.	So much as has not been repealed.
Act XII of 1864 .	An Act to give further effect to the provisions of Act IV of 1863.	So much as has not been repealed.
Act XXIII of 1872 .	An Act for regulating the re-importation into British territory of goods cleared at Rangoon for the territory of the King of Ava.	The whole.

[a] The 29th November, 1886—see s. 1 (*2*), *supra*, p. 363.

THE SECOND SCHEDULE.

(*See section 6.*)

FIRST PART.[a]

Enactments declared in force in Upper Burma generally.

Number and year	Subject.
BENGAL REGULATIONS.	
III of 1818[b] . . .	State-prisoners.
ACTS OF THE GOVERNOR GENERAL IN COUNCIL.	
V of 1843 . . .	Slavery.
XVIII of 1850 . .	Protection of Judicial Officers.
XIX of 1850 . . .	Apprentices.
XXXIV of 1850 . .	State-prisoners.
XXXVII of 1850 . .	Inquiries into behaviour of Public Servants.
VIII of 1851[c] . . .	Tolls on Roads and Bridges.
XXX of 1852 . . .	Naturalization of Aliens.
II of 1853 . . .	Burdens on Land.
XII of 1855 . . .	Executors and Administrators.
XIII of 1855 . . .	Compensation for death caused by actionable wrong.
XXIV of 1855 . . .	Penal Servitude.
XI of 1857 . . .	State-offences.
III of 1858 (s. 5) . .	State-prisoners.
XXXV of 1858 . .	Lunatics.
XXXVI of 1858 . .	Lunatic Asylums.
IX of 1859 (except s 18, last para).	Forfeited Property.
IX of 1860 . . .	Disputes between Workmen and Employers.
XLV of 1860 . . .	Penal Code.
V of 1861[c] . . .	Police.
III of 1864 . . .	Foreigners.
VI of 1864[c] (except s 6) .	Whipping.
III of 1865 . . .	Carriers.
X of 1865 . . .	Succession.
XIV of 1866 . . .	Post Office.
III of 1867 . .	Public Gambling
XXV of 1867 . . .	Printing Presses and Newspapers.
XXXII of 1867[d] .	Chief Commissioner's Powers.
I of 1868 . . .	General Clauses.
IV of 1869 . . .	Divorce.
V of 1869 . . .	Indian Articles of War.
XV of 1869 . . .	Prisoners' Testimony.
XX of 1869 . . .	Volunteers.
VII of 1870[e] . . .	Court-fees.

[a] The references to Ben Reg XI of 1816 and Acts XV of 1850, XXVII of 1860 and XIII of 1872 have been omitted from this Part of Schedule II as they were repealed by Act XI of 1889, s. 2 (*1*)—see *supra*, p 335.

[b] See *supra*, p 4

[c] For modification of Acts VIII of 1851, V of 1861 and VI of 1864, see s 7, cls (*a*), (*b*) and (*c*), *supra*, p. 365.

[d] See *supra*, p 13.

[e] The following notification has been issued under the Court-fees Act, VII of 1870 —

"*No 5590, dated the 12th October, 1888*.—In exercise of the power conferred by section 35 of the Court fees Act, VII of 1870, the Governor General in Council is pleased to remit in the whole of Upper Burma, with effect on and from the first day of November, 1888, the fees payable under that Act on plaints, applications, petitions and copies which are filed, exhibited or recorded in the Court of a Circle Officer, or in any Court presided over by a Thugyi or Myothugyi, or which are received or furnished by a Thugyi or Myothugyi. For the purposes of this Notification the expression "Thugyi or Myothugyi" is to be held to include any person, however designated, who in any part of Upper Burma occupies a position similar to that which is held in other parts by a Thugyi or Myothugyi."

See Gazette of India, 13th October, 1888, Pt I, p 401.

THE SECOND SCHEDULE—*continued.*

FIRST PART—*continued.*

Enactments declared in force in Upper Burma generally—continued.

Number and year.	Subject.
ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*	
XX of 1870	Court-fees Act Amendment.
XXIII of 1870	Coinage.
XXVI of 1870	Prisons.
XXVII of 1870	Penal Code Amendment.
I of 1871	Cattle-trespass.
V of 1871	Prisoners.
XXIII of 1871	Pensions.
I of 1872[a]	Evidence.
XV of 1872	Christian Marriage.
XVIII of 1872	Evidence Act Amendment.
XIX of 1872	Penal Code Amendment.
II of 1873[b]	Burma Ferries.
X of 1873	Oaths.
XIV of 1873	Lunatic Soldiers.
IV of 1874	Foreign Recruiting.
IX of 1874	European Vagrancy.
XIV of 1874[c]	Scheduled Districts.
V of 1875	Native Soldiers.
IX of 1875	Majority.
XIII of 1875	Probates.
XI of 1876	Presidency Banks.
XIX of 1876[a] (except s. 12)	Dramatic Performances.
I of 1877 (s. 9)	Specific Relief.
II of 1877	Probates.
XI of 1877	Military Lunatics.
XV of 1877[d]	Limitation.
VI of 1878	Treasure Trove.
XI of 1878	Arms.
I of 1879[e]	Stamps.
III of 1879 (ss. 2, 4, 5, 7 and 8[f]).	Destruction of Records.
IV of 1879	Railways.
V of 1879	Presidency Banks Act Amendment.
XXI of 1879	Extradition.
III of 1880	Cantonments.
V of 1881 (s. 153)[g]	Probate and Administration.
III of 1882 (s. 3)	Seditious Publications.
VI of 1882	Companies.

[a] For modification of Acts I of 1872 and XIX of 1876, see s. 7, cls. (*d*) and (*e*), *supra*, p. 366.

[b] See *supra*, p. 29

[c] The Scheduled Districts Act, XIV of 1874, has also been declared in force in Upper Burma (except the Shan States) by a Notification under s. 3 of that Act—see Gazette of India, 6th November, 1886, Pt. I, p. 664

[d] The operation of so much of the Indian Limitation Act, 1877, as limits the period for the institution of suits, has been suspended on and from the 10th September, 1887, to the 30th June, 1890—see Reg. X of 1887, s. 5, *infra*, p. 450.

[e] The provisions of the Indian Stamp Act, 1879, with respect to the consequences of instruments not being duly stamped, do not apply to any instrument which may have been executed before the 29th November, 1886, and to which the law of British India did not apply at the time of its execution—see Reg. X of 1887, s. 3, *infra*, p. 449

[f-f] These words and figures against Act III of 1879 have been substituted by Act XVIII of 1888, s. 7—see *supra*, p. 76

[g] S. 153 of Act V of 1881 has been repealed by Act VII of 1889, which extends *proprio vigore* to Upper Burma.

THE SECOND SCHEDULE—*concluded.*

FIRST PART—*concluded.*

Enactments declared in force in Upper Burma generally—concluded.

Number and year.	Subject.
ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*concld.*	
VIII of 1882	Penal Code Amendment.
IX of 1882	Prisoners Act Amendment.
XX of 1882	Paper Currency.
IV of 1883	Railways.
XIX of 1883	Land Improvement Loans.
XVI of 1884[a]	Burma Gaming.
XIII of 1885	Telegraphs.
X of 1886 (ss. 21 to 25, both inclusive).	Penal Code and Prisoners Act Amendment.
XIII of 1886	Securities.

SECOND PART.[b]

Enactments declared in force in the Town of Mandalay only.

Number and year.	Subject.
ACTS OF THE GOVERNOR GENERAL IN COUNCIL.	
IX of 1872	Contracts.
I of 1877	Specific Relief.
V of 1881	Probate and Administration.
XXVI of 1881	Negotiable Instruments.
XIV of 1882	Code of Civil Procedure.
II of 1885	Negotiable Instruments Act Amendment.
IV of 1886	Contract Act Amendment.

THE THIRD SCHEDULE.

(*See section 7, sub-section (1), cl. (c).*)

ADDITION TO ACT VI OF 1864.

"6. (*1*) Notwithstanding anything in the foregoing sections of this Act, a person convicted of an offence specified in the schedule to this Act, or of any offence which the Local Government, with the previous sanction of the Governor General in Council, may add to that schedule, may be punished with whipping, either in

[a] See *supra*, p. 66.
[b] The reference to Act XI of 1865 has been omitted from this Part of Schedule II, as it was repealed by Act XI of 1889, s. 2 (*1*)—see *supra*, p. 335.

THE THIRD SCHEDULE—*continued.*

lieu of, or in addition to, any other punishment to which he may be liable.

"(2) The Local Government may at any time suspend the operation of this section in whole or in part in any district or part of a district, and, with the previous sanction of the Governor General in Council, remove the suspension of its operation.

"THE SCHEDULE."

(*See section 6, sub-section (1).*)

Section of Indian Penal Code.	Offence.
302	Murder.
304	Culpable homicide not amounting to murder.
307	Attempt to murder.
325	Voluntarily causing grievous hurt.
326	Voluntarily causing grievous hurt by dangerous weapons or means.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
333	Voluntarily causing grievous hurt to deter public servant from his duty.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing of such theft or to retiring after committing it, or to retaining property taken by it.
386	Extortion by putting a person in fear of death or grievous hurt.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.
392	Robbery.
393	Attempt to commit robbery.
394	Person voluntarily causing hurt in committing, or attempting to commit, robbery, or any other person jointly concerned in such robbery.
395	Dacoity.
396	Murder in dacoity.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.
399	Making preparation to commit dacoity.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.
402	Being one of five or more persons assembled for the purpose of committing dacoity.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.
435	Mischief by fire or explosive substance with intent to cause damage to amount of one hundred rupees or upwards, or, in case of agricultural produce, ten rupees or upwards.

THE THIRD SCHEDULE—*concluded.*

Section of Indian Penal Code	Offence.
436	Mischief by fire or explosive substance with intent to destroy a house, &c.
440	Mischief committed after preparation made for causing death or hurt, &c.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.
506	Criminal intimidation, if threat be to cause death or grievous hurt, &c.
	Abetment of any of the foregoing offences.
	Attempt to commit any of those offences which are not themselves expressed to be attempts to commit offences.

ACT No. XV OF 1888.

Received the Governor General's assent on the 26th October, 1888.

An Act to supplement the provisions of the Upper Burma Laws Act, 1886, with respect to the Shan States.

WHEREAS it is expedient to supplement the provisions of the Upper Burma Laws Act, 1886,[a] with respect to the Shan States in Upper Burma; It is hereby enacted as follows: XX of 1886.

Title, extent and commencement.

1. (*1*) This Act may be called the Shan States Act, 1888; and,

(*2*) Notwithstanding anything in section 8, sub-section (*2*), of the Upper Burma Laws Act, 1886, it shall come into force throughout the Shan States on such day as the Local Government, by notification in the official Gazette, appoints in this behalf.[b]

Definitions.

2. In this Act—

(*1*) "Shan State" means a territory for the time being notified under sub-section (*3*) of section 8 of the Upper Burma Laws Act, 1886, as a Shan State for the purposes of that section and sections 6 and 7 of that Act: and

(*2*) "chief" includes a person temporarily administering such a State.

Administration of Shan States by their own chiefs and

3. (*1*) Subject to the provisions of this Act and of any enactment[c] for the time being in force in a Shan State under section 8, sub-section (*1*), of the Upper Burma Laws Act, 1886, and to such conditions as may have been or

[a] See *supra*, p. 363.

[b] The Act came into force on 1st February, 1889—see Burma Gazette, 29th December, 1888, Pt. I, p. 616.

[c] For enactments in force in the Shan States, see Appendix, Pt. III, *infra*, p. 500, *et seq.*

may be prescribed by the Local Government, with the approval of the Governor General in Council, in any instrument recognising a person as the chief of the State, the administration of civil and criminal justice and the collection of the revenue within the State shall be vested in the person for the time being recognised by the Local Government as the chief of the State. under their own laws.

(*2*) Subject as aforesaid, the law to be administered in a Shan State shall be the customary law of the State in so far as that law is in accordance with justice, equity and good conscience, and the punishments which may be awarded thereunder, or the practices which are permitted thereby, are in conformity with the spirit of the law in force in the rest of British India.

Participation of the Government in the administration of Shan States.

4.[a] (*1*) The Local Government may, by order,—

(*a*) appoint officers to undertake, or to take part in, the administration of civil and criminal justice and the collection of the revenue within a Shan State;

(*b*) with the previous sanction of the Governor General in Council, define the powers and regulate the procedure of officers so appointed and their deputies and subordinates and of the chief and his deputies and subordinates;

(*c*) with the previous sanction of the Governor General in Council, direct by what authority any jurisdiction, power or duty incident to the operation of any enactment for the time being in force in the State under section 8, sub-section (*1*), of the Upper Burma Laws Act, 1886,[b] is to be exercised or performed; and

XX of 1886.

(*d*) modify the customary law of the State in so far as, in the opinion of the Local Government, that law is not in accordance with justice, equity and good conscience, or authorises punishments, or permits practices, which are not in conformity with the spirit of the law in force in the rest of British India.

(*2*) An order of the Local Government under sub-section (*1*) may have reference to any one Shan State or to any number of Shan States specified or referred to in the order.

Modification of enactments in their application to the Shan States.

5.[a] In extending an enactment to a Shan State under section 8, sub-section (*1*), of the Upper Burma Laws Act, 1886,[b] the Local Government, with the previous sanction of the Governor General in Council, may declare its extension to be subject to such restrictions and modifications as that Government thinks fit.

XX of 1886.

[a] For orders under s. 4 concerning the Shan States and enactments extended thereto under s. 5, see Appendix, Pt III, *infra*, p 500, *et seq.*

[b] See *supra*, p 366.

B.—REGULATIONS MADE UNDER THE STATUTE 33 VICT., CAP. 3.[a]

REGULATION No. VII OF 1886.

A Regulation to provide for the administration of Criminal Justice in Upper Burma.

Published in the Gazette of India of the 23rd October, 1886, and in the Burma Gazette of the 6th November, 1886.

WHEREAS it is expedient to provide for the administration of criminal justice in Upper Burma; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Regulation may be called the Upper Burma Criminal Justice Regulation, 1886; and

(*2*) It shall come into force on such date, within three months from the time at which it may receive the Governor General's assent, as the Local Government may by notification in the official Gazette appoint in this behalf.[c]

Application of the Code of Criminal Procedure.

2. (*1*) Subject to the modifications set forth in the schedule to this Regulation, the Code of Criminal Procedure, 1882, as amended by Acts III of 1884 and X of 1886 (which Code as so amended is in this Regulation referred to as "the Code"), shall extend to the whole of Upper Burma except the Shan States, so far as it can be made applicable in the circumstances for the time being. X of 1882

(*2*) For the purpose of facilitating the application of the Code, any Magistrate or Court may construe any provision therein with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the Magistrate or Court.

Power for Local Government to make rules and issue orders before commencement of Regulation.

3. Any power conferred on the Local Government by the Code as modified by this Regulation to make rules or issue orders may be exercised at any time after the passing of this Regulation, but a rule or order so made or issued shall not take effect until the Regulation comes into force.

Expiration of Regulation.

4. This Regulation shall expire on the thirty-first day of December, 1888,

[a] The provisions of s. 1 of 33 Vict., c. 3, have been declared applicable to Upper Burma (except the Shan States) from the 1st March, 1886—see Gazette of India, 8th May, 1886, Pt. I, p. 311.

[b] So much of this Regulation as was in force on the 4th March, 1889, and on the 30th May, 1889, and has reference to the judicial functions of Magistrates of the first class and of District Magistrates, either as such or as Judges of Courts of Session, has been extended to the Myelat, and to the Northern and Southern Shan States, respectively, subject to certain modifications—see notifications in Appendix, Pt. III, *infra*, pp. 501 and 502.

[c] The Regulation came into force on the 29th November, 1886—see Burma Gazette, 27th *idem*, Pt. I, p. 360.

unless its operation is extended beyond that date by an order of the Governor General in Council.[a]

SCHEDULE.

(*Section 2, sub-section (1).*)

Modifications subject to which the Code is to extend to Upper Burma with the exception of the Shan States.

I. "High Court" shall mean,[b] except in reference to proceedings against European British subjects or persons jointly charged with European British subjects,[b]— "High Court." (Section 4, cl. (*i*).)

(*a*) in the case of Chapter XXVII and sections 381 and 382, and of appeal from, and revision of, a sentence of death, the Local Government; and

(*b*) in other cases, an officer to be appointed in this behalf by the Local Government with the previous sanction of the Governor General in Council and to be styled the Judicial Commissioner of Upper Burma:

Provided, with respect to clause (*a*) of the second part of this definition, that the Local Government may from time to time by order in writing direct that the functions assigned to the Local Government as High Court by that clause shall, for any local area described in the order, be discharged by the Judicial Commissioner of Upper Burma, and may at any time revoke an order under this proviso with effect on and from such date subsequent to the notification of the revocation thereof to the Judicial Commissioner as the Local Government may appoint.[c]

II. The police-officer of highest rank present at a police-station-house shall be deemed to be an "officer in charge of a police-station". "Officer in charge of a police-station." (Section 4, cl. (*o*).)

III. (*1*) Each district shall be a sessions division, the Court of the District Magistrate shall be the Court of Session for that division, and the District Magistrate shall be the Judge of that Court. Court of Session. (Sections 7, 9 and 193 and Chapter XXIII.)

(*2*) As Judge of a Court of Session, a District Magistrate may take cognizance of any offence as a Court of original jurisdiction without the accused

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[a] Under s. 4 the operation of the Regulation has been extended for a period of two years from the 31st December, 1888—see Gazette of India, 13th October, 1888, Pt. I, p. 460.

[b-b] These words in s. 1 have been substituted by Act XI of 1889, s. 97—see *supra*, p. 337.

[c] Sub-s. (*2*) of s. I, repealed by Act XI of 1889, s. 2 (*1*), has here been omitted.

person being committed to him by a Magistrate, and, when so taking cognizance of an offence, shall, subject to the provisions of this Regulation, follow the procedure prescribed for the trial of warrant-cases by Magistrates.

(*3*) A trial before a Court of Session may be without jury or aid of assessors.

Conferment of magisterial powers on police-officers. (Section 14.)

IV. Notwithstanding anything in Act V of 1861, or in any other enactment for the time being in force, the Local Government may confer on any police-officer all or any of the powers conferred or conferable by or under the Code on any Magistrate, in regard to particular cases, or to a particular class or particular classes of cases, or to cases generally.

Whipping. (Section 32)

V. (*1*) A Magistrate of any class may pass a sentence of whipping.

(*2*) A Magistrate of the second class may pass a sentence of whipping without being specially empowered in that behalf by the Local Government.

(*3*) A Magistrate of the third class shall not pass a sentence of whipping unless he is specially empowered in that behalf by the Local Government.

Powers of Magistrates. (Sections 36, 37 and 260.)

VI. (*1*) Magistrates described in the first column of the following table shall have the powers severally specified against them in the second column thereof, without being further empowered in that behalf:—

Magistrates.	Powers.
1	2
Magistrate of the first class.	To require security for good behaviour, section 110; To make orders as to local nuisances, section 133.
Magistrates of the first or second class.	To make orders prohibiting repetition of nuisances, section 143; To make orders under section 144.
Magistrates of the first, second or third class.	To entertain complaints, section 191; To receive police-reports, section 191; To entertain cases without complaint, section 191.
Subdivisional Magistrates.	To call for records, section 435.

(*2*) The Local Government may empower a Magistrate of any class to try in a summary way under Chapter XXII any offence mentioned in section 260 which under section 29 he is competent to try.

Power to any police-officer to act under section 55. (Section 55)

VII. Any police-officer may exercise the powers conferred by section 55 on an officer in charge of a police-station.

Detention by police. (Sections 57 and 61)

VIII. (*1*) Notwithstanding anything in section 57 or section 61, an officer in charge of a police-station may detain a person arrested without warrant so long as under all the circumstances of the case is reasonable:

(*2*) But when the officer of his own authority detains any such person in custody for a longer period than 24 hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court, he shall state in the report prescribed in section 62 his reasons for prolonging the detention of the person, and, where the detention extends beyond three days, shall submit further reports of the reasons therefor at such intervals as the Magistrate to whom the report under section 62 was submitted may by general or special order direct.

IX. Nothing in the first paragraph of section 162 shall be construed to apply to a statement made to a police-officer who is a Magistrate.

Complement to Upper Burma Laws Act, 1886, s. 7 (*1*) (*d*). (Section 162.)

X. A prosecution for an offence against the State, or for the offence of giving false evidence in respect of a statement made by a person who has accepted a tender of pardon, may be entertained upon complaint made by order of, or under authority from, the District Magistrate.

State-offences and false evidence by person to whom pardon has been tendered. (Sections 196 and 339.)

XI. A Magistrate tendering a pardon to an accomplice under section 337 need not record his reasons for so doing, and, notwithstanding anything in that section, may try the case himself.

Tender of pardon. (Section 337.)

XII. (*1*) In inquiries and trials (other than summary trials) by or before a Magistrate or Court of Session, it shall be sufficient if the Magistrate or Court makes a memorandum of the substance of the evidence of each witness as the examination of the witness proceeds.

Recording of evidence. (Chapter XXV.)

(*2*) Notwithstanding anything in sub-section (*1*) or in the Code, the Local Government may from time to time make rules with respect to the record to be made in cases tried by such Myothugyis and Thugyis as are Magistrates of the third class, and as to the disposal of the record.

XIII. In the case of a sentence of imprisonment for a term not exceeding six months, the Court passing the sentence may forward the accused with a warrant to the District Magistrate, who may in his discretion either cause the prisoner to be employed in any part of the district on roads or other works of public utility, or forward him to the nearest jail.

Execution of sentence of imprisonment for six months or less. (Section 383.)

XIV. (*1*) A person convicted on a trial held by a District Magistrate may appeal to the High Court.

Appeal to High Court and limitation therefor. (Section 408.)

XV of 1877. (*2*) Notwithstanding anything in the Indian Limitation Act, 1877, the period of limitation for an appeal to the High Court shall, except in the cases

provided for by No. 150 and No. 157 of the second schedule to that Act, be thirty days from the date of the conviction.

Restrictions on appeal. (Sections 413, 414 and 438.)

XV. (*1*) Notwithstanding anything in this schedule or in the Code, an appeal shall not lie—

(*a*) in a case in which a Magistrate of the third class passes a sentence of imprisonment for a term not exceeding one month only, or of fine not exceeding fifty rupees only, or of whipping only; or

(*b*) in a case in which a Magistrate of the second class passes a sentence of imprisonment for a term not exceeding three months only, or of fine not exceeding one hundred rupees only, or of whipping only; or

(*c*) in a case in which a Magistrate of the first class passes a sentence of imprisonment for a term not exceeding six months only, or of fine not exceeding five hundred rupees only, or of whipping only; or

(*d*) in a case in which a District Magistrate or Court of Session passes a sentence of imprisonment for a term not exceeding one year, or of fine not exceeding one thousand rupees, or of whipping, or of all or any of those punishments combined.

(*2*) The Governor General in Council may at any time, by notification in the official Gazette, direct that this section shall cease to be in force in any district with effect from a date to be specified in the notification.

(*3*) While this section is in force in any district, the District Magistrate may, in any case in which he has himself called for, or a Subdivisional Magistrate has forwarded to him, the record of a proceeding before a Magistrate of the second or of the third class, pass such order in the case as he thinks fit.

Enhancement of punishment on appeal. (Section 423.)

XVI. In any case in which an appeal lies, the Appellate Court may enhance any punishment which has been awarded:

Provided that, if the appeal is from the sentence of a Magistrate of any class, the Appellate Court shall not inflict a greater punishment than might have been inflicted by a Magistrate of the first class.

Contempt and offences against public justice or relating to documents. (Section 487.)

XVII. Where an offence referred to in section 195 is committed before a Judge of a Criminal Court or Magistrate, or in contempt of his authority, or is brought to his notice in the course of a judicial proceeding, he may himself try for the offence the person accused thereof.

Conduct of prosecutions. (Section 495.)

XVIII. Notwithstanding anything in section 495, a Court may allow any police-officer to conduct a prosecution.

Adjournment on application for transfer of cases. (Section 526A.)

XIX. A Court may, for reasons to be stated in writing, refuse to exercise in the manner mentioned in section 526A the power of postponement or adjournment given by section 344.

Orders not reversible on technical grounds alone. (Section 537.)

XX. Notwithstanding anything in the Code, a finding, sentence or order shall not be reversed or altered on appeal or revision on account of any irregularity of procedure unless the irregularity has occasioned a failure of justice.

Fees for processes, copies and inspection of records. (Section 553.)

XXI. Rules under section 553, clause (*c*), may regulate the following among other matters, namely:—

(*a*) the fees to be paid for processes; and

(*b*) the fees to be paid for copies and inspection of records.

Saving of provisions relating to European British subjects.

XXII. Nothing in this schedule with respect to procedure in inquiries or trials, or with respect to sentences or appeals therefrom or the enhancement or execution thereof, shall be construed to affect the Code in its application to European British subjects.

Transitory Provision.

Discharge of functions of High Court pending appointment of Judicial Commissioner.

XXIII. Until a Judicial Commissioner is appointed for Upper Burma, the functions assigned or assignable to him by or under the Code as modified by this Regulation shall be discharged by Commissioners in and for their respective divisions as for the time being defined under section 3 of the Upper Burma Laws Act, 1886.[a]

XX of 1886.

THE UPPER BURMA CIVIL JUSTICE REGULATION, 1886.

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REGULATION No. VIII OF 1886.

A Regulation to provide for the Administration of Civil Justice in Upper Burma.

Published in the Gazette of India of the 23rd October, 1886, and in the Burma Gazette of the 6th November, 1886.

WHEREAS it is expedient to provide for the administration of civil justice in Upper Burma; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Upper Burma Civil Justice Regulation, 1886.

(*2*) It extends to the whole of Upper Burma except the Shan States; and

(*3*) It shall come into force on such date, within three months from the time at which it may receive the Governor General's assent, as the Local Government may, by notification in the official Gazette, appoint in this behalf.[a]

(*4*) Any power conferred by this Regulation to make rules or issue orders may be exercised at any time after the passing of this Regulation, but a rule or order so made or issued shall not take effect until the Regulation comes into force.

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[a] The Regulation came into force on the 29th November, 1886—see Burma Gazette, 27th *idem*, Pt. I, p. 360.

Interpretation.

2. (*1*) The provisions of the General Clauses Act, 1868, shall, so far as they may be applicable, apply to this Regulation. I of 1868.

(*2*) "Value", used with reference to a suit, means the amount or value of the subject-matter thereof.

CHAPTER II.

THE COURTS.

(*1*).—*In Upper Burma generally.*

Grades of Civil Courts.

3. Besides the Civil Court having ordinary original jurisdiction within the Town of Mandalay under this Regulation, and the Courts established under any other enactment for the time being in force, the Civil Courts in Upper Burma shall be of five grades, namely:—

(*1*) the Court of the Judicial Commissioner;

(*2*) the Court of the Deputy Commissioner;

(*3*) the Court of the Subdivisional Officer;

(*4*) the Court of the Township Officer; and

(*5*) the Court of the Circle Officer.

Appointment and removal of Judges.

4. (*1*) The Judicial Commissioner shall be appointed and may be removed by the Local Government with the previous sanction of the Governor General in Council.

(*2*) Deputy Commissioners, Subdivisional Officers and Township Officers shall be appointed and may be removed by the Local Government.

(*3*) Circle Officers shall be appointed and may be removed by the Judicial Commissioner.

(*4*) Notwithstanding anything in Act V of 1861, or in any other enactment for the time being in force, a police-officer may be appointed a Circle Officer for the purposes of this Regulation.

Number of Courts of second, third, fourth and fifth grades.

5. (*1*) The Local Government may fix and vary—

(*a*) with the previous sanction of the Governor General in Council, the number of Courts of Deputy Commissioners, and

(*b*) of its own authority, the number of Courts of Subdivisional Officers and Township Officers.

(*2*) The Judicial Commissioner may fix and vary the number of Courts of Circle Officers.

Power to fix local limits of jurisdiction of Courts of

6. (*1*) The Local Government may, by notification in the official Gazette, fix and vary the local limits of the jurisdiction of Courts of Deputy Commissioners, Subdivisional Officers and Township Officers.

(2) The Judicial Commissioner may fix and vary the local limits of the jurisdiction of Courts of Circle Officers

second, third, fourth and fifth grades.

7. Except as otherwise provided by any other enactment for the time being in force—

Original jurisdiction of Courts.

(*a*) the Court of the Circle Officer shall have jurisdiction in original suits of value not exceeding fifty rupees,

(*b*) the Court of the Township Officer shall have jurisdiction in original suits of value not exceeding three hundred rupees, and

(*c*) the Court of the Subdivisional Officer and the Court of the Deputy Commissioner shall have jurisdiction in original suits without limit as regards the value

8. (*1*) Subject to the provisions of this Regulation, the Court of the Judicial Commissioner shall, for the purposes of all enactments relating to civil jurisdiction for the time being in force, be deemed to be the High Court for Upper Burma.

Court of Judicial Commissioner to be High Court, and Court of Deputy Commissioner to be District Court.

(*2*) Subject to those provisions, the Court of the Deputy Commissioner shall, for the same purposes, be deemed to be the principal Civil Court of original jurisdiction and the District Court for the local area within its jurisdiction

Provided that the Local Government may, by notification in the official Gazette, direct that the Court of the Subdivisional Officer shall, for the purposes of any enactment specified in the notification, be deemed to be the District Court for the local area within its jurisdiction

9. (*1*) The general superintendence and control over all other Civil Courts shall be vested in, and all such Courts shall be subordinate to, the Court of the Judicial Commissioner.

Control over Civil Courts.

(*2*) Subject to the general superintendence and control of the Court of the Judicial Commissioner, the Deputy Commissioner shall control all other Civil Courts in the local area within his jurisdiction.

(*2*)—*In the Town of Mandalay only*

10. (*1*) There shall be a Civil Court, to be known as the Civil Court of Mandalay, having jurisdiction within the Town of Mandalay, and consisting of two Judges, to be called respectively the First Judge and the Second Judge, who shall be appointed and may be removed by the Local Government.

Constitution of Civil Court of Mandalay, and appointment and tenure of Judges

(*2*) The Local Government may define the limits of the Town of Mandalay

as the local area subject to the jurisdiction of the Civil Court of Mandalay.[a]

(*3*) Section 8, sub-section (*1*), and section 9, sub-section (*1*), with respect to the Court of the Judicial Commissioner, apply to that Court in its relation to the Civil Court of Mandalay.

Jurisdiction of Civil Court.

11. The Civil Court of Mandalay shall have jurisdiction to try—

(*a*) all original suits of a civil nature arising within the Town of Mandalay, and

(*b*) all original suits of a civil nature which may be transferred to it for disposal under this Regulation.

Exercise of powers of Civil Court by one Judge.

12. Subject to the provisions of this Regulation and of any other enactment for the time being in force, the Local Government may, after consultation with the Judicial Commissioner, make rules providing, in such manner as it thinks fit, for the exercise by one of the Judges of the Civil Court of Mandalay of all or any of the powers of that Court.

Decision in case heard by a Bench.

13.[b] (*1*) Where the two Judges of the Civil Court of Mandalay sitting together are of the same opinion as to a decree or order to be made, the decree or order shall follow their opinion.

(*2*) If they differ as to a question of law or usage having the force of law, or in construing a document the construction of which may affect the merits, they shall draw up, and refer for the decision of the Judicial Commissioner, a statement of the facts of the case and of the point on which they differ in opinion, and the provisions of the Code of Civil Procedure applicable to a reference to the High Court shall apply. XIV of 1882.

(*3*) If they differ on any matter other than a matter specified in sub-section (*2*), the opinion of the First Judge shall prevail.

Appeals.

14. (*1*) An appeal shall lie to the First Judge from a decree or order of the Second Judge sitting singly, and to the Court of the Judicial Commissioner from a decree or order of the two Judges sitting together or of the First Judge sitting singly.

(*2*) The period of limitation for an appeal under this section shall run from the date of the decree or order appealed against, and shall be as follows:—

(*a*) when the appeal lies to the Court of the First Judge—thirty days:

(*b*) when the appeal lies to the Court of the Judicial Commissioner—sixty days.

[a] For notification under s. 10 (*2*) defining the limits of the Town of Mandalay, see Burma Gazette, 23rd July, 1887, Pt. I, p. 301.

[b] For notifications under s. 13, see Burma Gazettes, 26th November, 1887, and 21st July, 1888, Pt. I, pp. 458 and 310, respectively.

(*3*) In the computation of these periods of thirty and sixty days, the limitation of the appeals shall be governed by the provisions of the Indian Limitation Act, 1877.

XV of 1877.

Conferment of Small Cause Court jurisdiction on First and Second Judges.

15. (*1*) The Local Government may confer, within the Town of Mandalay, upon the First Judge and the Second Judge the jurisdiction of a Judge of a Court of Small Causes under Act IX of 1887[a] for the trial of suits cognizable by such Courts up to such value not exceeding five hundred rupees and fifty rupees, respectively, as the Local Government thinks fit.

(*2*) The Local Government may make rules for regulating the distribution of business between the First Judge and the Second Judge under this section.

XIV of 1882.

Revision.

16. (*1*) Notwithstanding anything in section 622 of the Code of Civil Procedure, the Judicial Commissioner may in any circumstances call for the record of any case decided in the Civil Court of Mandalay in which an appeal does not lie or in which, for cause shown to his satisfaction, an appeal has not been preferred to himself or to the First Judge, as the case may be, within the time limited therefor.

(*2*) The First Judge may forward to the Judicial Commissioner, with such remarks as he thinks fit, the record of any case decided by the Second Judge in which an appeal does not lie or in which, for cause shown to the satisfaction of the First Judge, an appeal has not been preferred within the time limited therefor.

(*3*) The Judicial Commissioner may, in any case called for by him under sub-section (*1*) or forwarded to him under sub-section (*2*), pass such order as he thinks fit.

CHAPTER III.

Civil Procedure.

General Rules.

Procedure to be observed at Mandalay and elsewhere respectively.

17. (*1*) Except as otherwise provided by any other enactment for the time being in force, the provisions of this Chapter shall apply to all suits and other proceedings in the Civil Courts of Upper Burma, except proceedings in the Civil Court of Mandalay and in the Court of the Judicial Commissioner as a Court of Appeal, Reference or Revision in relation thereto.[b]

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[a] This Act has been substituted in s. 15 (*1*) for Act XI of 1865—see Act IX of 1887, s. 2 (*3*).

[b] S. 17 (*1*) has been modified so far as regards the application of ss. 20, 21 and 22—see foot-note on next page.

(*2*) Except as aforesaid, and subject to the provisions of this Regulation, proceedings in the Civil Court of Mandalay shall be regulated—

(*a*) in suits transferred to the Court under this Regulation from a Court having jurisdiction beyond the limits of the Town of Mandalay, by the provisions of this Chapter, and

(*b*) in other cases, by the provisions of the Code of Civil Procedure, so far as those provisions can be made applicable. XIV of 1882.

(*3*) In the Court of the Judicial Commissioner as a Court of Appeal, Reference or Revision in relation to the Civil Court of Mandalay, the rules prescribed in the Code of Civil Procedure shall be followed so far as circumstances permit.

Prior Adjudications and Pending Suits.

Effect of prior adjudication.

18. A Court shall not try any suit in which the matter in issue has been heard and finally decided by a Court of competent jurisdiction in a former suit between the same parties in the same rights, or between parties under whom they, or any of them, claim.

Effect of pending suit.

19. A Court shall not try any suit in which the matter in issue is also in issue in another suit between the same parties, or between parties under whom they, or any of them, claim, pending in the same or any other Court, whether superior or inferior, in British India.

Appearances, Applications and Acts by Parties.

Appearance in person or by agent.

20.[a] (*1*) The Court may in its discretion, for any sufficient reason, permit any appearance, application or act required to be made or done by a party *under this Regulation* to be made or done by the party through a duly authorized agent, or through an advocate, vakil or attorney of one of the High Courts, or through an advocate of the first grade in Lower Burma.

(*2*) Permission under this section shall in all cases be granted to persons exempt from personal appearance in Court.

(*3*) Except with the permission of the Court granted under the foregoing portion of this section, every appearance, application or act *under this Regulation*[a] shall be made or done by a party in person.

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[a] Ss. 20, 21 and 22 are to apply, notwithstanding anything in s. 17, to all proceedings which are regulated by the Code of Civil Procedure in the Court of the Judicial Commissioner or in the Civil Court of Mandalay or in any other Court or before any officer in Upper Burma, and for this purpose the references to the Upper Burma Civil Justice Regulation, 1886, in ss. 20 and 22 are to be read as applying to the Code of Civil Procedure, and the provisions of the Code with respect to the matters to which ss. 20, 21 and 22 relate are to be read with, and to be controlled by, those sections—see Reg. X of 1887, s. 3, *infra*, p. 450.

(*4*) Where the permission mentioned in this section is granted to a party, the agent, vakil, attorney or advocate must, unless he is an advocate of a High Court established by Royal Charter, be appointed by the party by instrument in writing, and that instrument must be filed in Court.

Withdrawal of permission to appoint agent.

21.[a] In any case in which the Court has permitted a party not being a person exempt from personal appearance in Court to appear by agent, vakil, attorney or advocate, it may, for reasons to be recorded in writing, withdraw the permission at any stage of the proceedings and require the party to attend in person.

Consequences of not appearing in person when required.

22.[a] A party required to attend in person under the last foregoing section, and failing so to attend, shall be subject to the provisions *of this Regulation*[a] applicable to parties who do not appear.

Institution of Suits.

23. The plaintiff may begin his suit—

Mode of beginning suit.

(*a*) in the Court of a Circle Officer by making a verbal complaint, which shall be reduced to writing by the Court, and

(*b*) in any other Court by presenting a written plaint.

Examination of plaintiff.

24. On a complaint being made or a plaint presented, the Court shall register the suit and examine the plaintiff, or his agent, vakil, attorney or advocate, as to the merits of the case.

Summary dismissal of suit.

25. If upon the examination it appears that there is no substantial cause of action, or that the claim is one which from its nature is not a proper subject of litigation in a Civil Court, the Court may dismiss the suit.

Issue of summons.

26. If upon the examination it is found that the plaintiff sets forth a good cause of action, the Court shall issue a summons to the defendant to appear and answer at a certain place and on a certain day.

Service of Summons on Defendants.

Mode of service of summons when there are several defendants.

27. Service of the summons shall be made by delivering or tendering a copy thereof under the signature of the Judge and seal of the Court, and, when there are more defendants than one, service of the summons shall be made on each defendant.

Service on defendant in person.

28. Whenever it is practicable, the service shall be on the defendant in person.

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[a] See foot-note on preceding page.

Service when defendant cannot be found.

29. When the defendant cannot be found, the service may be on any adult male member of his family residing with him.

Endorsement of summons by person served.

30. (*1*) Where the summons is served on the defendant personally, or on any person on his behalf, the person on whom the service is made shall be required to sign an acknowledgment of service, to be endorsed on the original summons, or on a copy thereof under the seal of the Court.

(*2*) If the person refuses to sign the acknowledgment, the service of the summons shall nevertheless be held sufficient if it is otherwise proved to the satisfaction of the Court.

Service by posting copy of summons on door of dwelling-house.

31. When the defendant cannot be found, and there is no person on whom the service can be made, the service may be effected by posting the copy of the summons on the outer door of the house in which the defendant is dwelling, if he is dwelling at any place within the local limits of the jurisdiction of the Court.

Endorsement of summons by person serving.

32. The person serving a summons shall, in all cases in which the summons has been served, endorse on the original summons, or on a copy thereof under the seal of the Court, the time when, and the manner in which, it was served.

Substituted service when summons is returned unserved.

33. (*1*) When a summons is returned to the Court without having been served, if the plaintiff satisfies the Court that there is reasonable ground for believing that the defendant is keeping out of the way for the purpose of avoiding the service of the summons, the Court shall order the summons to be served—

(*a*) by posting a copy thereof on some conspicuous place in the court-house and also on the door of the house in which the defendant last resided, if it is known where he last resided, or

(*b*) in such other manner as the Court thinks proper.

(*2*) A service in the manner ordered by the Court under clause (*b*) of sub-section (*1*) shall be as effectual as if it had been made in the manner specified in clause (*a*) of that sub-section.

Fixing of time for appearance in case of substituted service.

34. When service is substituted by order of the Court under the last foregoing section, the Court shall fix such time for the appearance of the defendant as the case may require.

Service on defendant residing out of jurisdiction

35. If the defendant resides beyond the local limits of the jurisdiction of the Court in which the suit is instituted and has not within those limits an agent empowered to accept the service, the Court shall transmit the summons

for service to a Court having jurisdiction at the place where the defendant resides. and having no agent.

36. (*1*) If the defendant resides out of British India and has not in British India an agent empowered to accept the service, the summons shall be addressed to the defendant at the place where he resides, and be forwarded to him by post or otherwise. Service on defendant residing out of British India and having no agent.

(*2*) If, on the day fixed for the hearing of the suit, or on any day to which the hearing may be adjourned, the defendant does not appear, the plaintiff may apply to the Court, and the Court may direct that the plaintiff shall be at liberty to proceed with his suit in such manner, and subject to such conditions, as the Court thinks fit.

37. When the suit is for land or other immoveable property, and the summons for any reason cannot be served on the defendant in person, the summons may be served on any agent of the defendant in charge of the land or other property. Service on agent in charge of immoveable property.

Consequences of Non-appearance of Parties.

38. (*1*) If, on the day fixed for the defendant to appear and answer, or any other day subsequent thereto to which the hearing of the suit may be adjourned, neither party appears when called upon by the Court, the suit shall be dismissed. Dismissal of suit on non-appearance of either party.

(*2*) When a suit is dismissed under this section, the plaintiff may bring a fresh suit, or, if within a period of thirty days he satisfies the Court that there was sufficient cause for his failure to appear, the Court may issue a fresh summons upon the complaint already recorded or plaint already filed.

39. (*1*) If the plaintiff appears and the defendant does not appear, and it is proved to the satisfaction of the Court that the summons was duly served, the Court shall proceed to hear the suit *ex parte*. Procedure on non-appearance of defendant, when summons was duly served.

(*2*) If the defendant appears on any subsequent day to which the hearing of the suit is adjourned, and assigns good cause for his previous failure to appear, he may, upon such terms as the Court may direct as to payment of costs or otherwise, be heard in answer to the suit in like manner as if he had appeared on the day fixed for his appearance.

40. (*1*) If the plaintiff appears and the defendant does not appear, and it is not proved to the satisfaction of the Court that the summons was duly served in any of the modes of service provided by this Regulation, the Court may direct a second summons to the defendant to be issued in any of those modes. Procedure on non-appearance of defendant when summons was not duly served or not served in due time.

(2) If the plaintiff appears, and it is proved to the satisfaction of the Court that the summons was served on the defendant, but not in sufficient time to enable him to appear and answer on the day fixed in the summons, the Court shall postpone the hearing of the suit to a future day, to be fixed by the Court, and may direct notice of that day to be given to the defendant.

Judgment by default against plaintiff not appearing or against defendant on admission.

41. (1) If the defendant appears and the plaintiff does not appear, the Court shall pass judgment against the plaintiff by default, unless the defendant admits the claim, in which case the Court shall pass judgment against the defendant upon the admission.

(2) When judgment is passed against a plaintiff by default, he shall be precluded from bringing a fresh suit in respect of the same cause of action.

Consequence of non-appearance of one or more of several plaintiffs.

42. If there are two or more plaintiffs, and appearance is made by one or more of them and not by the other or others, the Court may, at the instance of the plaintiff or plaintiffs appearing, proceed with the suit in the same way as if all the plaintiffs had appeared, and pass such order as is just and proper in the circumstances of the case.

Consequence of non-appearance of one or more of several defendants.

43. If there are two or more defendants, and appearance is made by one or more of them and not by the other or others, the Court shall proceed with the suit to judgment, and shall, at the time of passing judgment, make such order with respect to the defendant or defendants by whom appearance has not been made as is just and proper in the circumstances of the case.

Setting aside judgment *ex parte* against defendant.

44. (1) Where judgment is passed *ex parte* against a defendant, he may apply within a reasonable time, not exceeding thirty days, after any process for enforcing the judgment has been executed, to the Court by which the judgment was passed, for an order setting it aside.

(2) If it is proved to the satisfaction of the Court that the summons was not duly served, or that the defendant was prevented by sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order setting aside the judgment and appoint a day for proceeding with the suit.

Setting aside judgment against plaintiff by default.

45. (1) Where judgment is passed against a plaintiff by default, he may apply, within thirty days from the date of the judgment, for an order setting it aside.

(2) If it is proved to the satisfaction of the Court that the plaintiff was prevented by sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order setting aside the judgment by default and appoint a day for proceeding with the suit.

46. A judgment shall not be set aside on an application under either of the two last foregoing sections unless notice of the application has been served on the opposite party. Judgment not to be set aside without notice.

Fixing Issues and Preparations for the Hearing.

47. If both parties are present on the day fixed for the defendant to appear and answer, or on any subsequent day to which the proceedings are adjourned for this purpose, the Judge shall examine them with a view to ascertaining upon what questions of law and fact the parties are at issue, and, having with his own hand made a note of the examination, shall frame and record the issues of law and fact on which the right decision of the case depends. Framing of issues.

48. (*1*) If the parties are at issue on a question of fact, the Court shall then further examine them as to the evidence they intend to adduce upon the question, and shall appoint a time and place for the hearing of the suit. Procedure when parties are at issue on a question of fact.

(*2*) Upon such sums being deposited for the expenses of witnesses as, subject to any rules made under this Regulation, the Court thinks reasonable, the Court shall issue such summonses for the attendance of witnesses and the production of documents as the parties may desire.

49. A summons to a witness shall be served as nearly as may be in the manner provided by this Regulation for service of summons on a defendant. Service of summons on witnesses.

50. If a witness on whom a summons has been so served neglects or refuses to appear at the time and place appointed, and does not offer reasonable excuse for the neglect or refusal, the Court may issue a warrant to bring the witness before it to give his evidence. Witness neglecting to attend may be arrested.

The Hearing.

51. (*1*) On the day appointed for the hearing of the suit, or on some other day to which the hearing may be adjourned, the evidence of the witnesses and of any parties to the suit appearing as witnesses shall be taken by the Judge orally in open Court and in presence of the parties. Mode of taking evidence.

(*2*) Any evidence given in a language not understood by a party to the suit shall be interpreted to that party as the examination proceeds.

(*3*) Each party may examine the opposite party and all witnesses.

52. A memorandum of all evidence taken shall be reduced to writing by the Judge as the examination proceeds with his own hand in English or in Burmese at his discretion. Recording of evidence.

53. The Court may at any stage of the suit examine as a witness any Power for

Court to examine witness, or require production of document.

person present in Court, or call upon him to produce any document or other thing, or summon any person to give evidence or produce any document or other thing, if it considers that the evidence of the person, or the production of the document or thing, is likely to aid it in the decision of the matters in dispute.

Commissions to take Evidence, make local Enquiries and examine Accounts.

Issue of commissions.

54. (*1*) If in any case—

(*a*) the evidence of a witness is required who resides at some place far distant from the place where the Court is held, or who is unable from sickness or infirmity to attend before the Court to be personally examined, or is exempt from personal appearance in Court, or

(*b*) a local investigation seems requisite for elucidating any matter in dispute, or

(*c*) an examination of any accounts becomes necessary,

the Court may, if it thinks fit, issue a commission to any person, delegating to him such powers and containing such instructions as it thinks necessary for the examination of the witness, or the making of the local investigation, or the examination of the accounts.

(*2*) The commission and the return thereto, and the depositions of any witnesses examined under the commission, and any documents filed before the person to whom the commission was issued, shall form part of the record.

Judgments.

Delivery of judgment.

55. When the documentary evidence (if any) has been perused, the witnesses examined and the parties heard, the Court shall, either immediately or on some subsequent day of which due notice shall be given to the parties, deliver its judgment.

Judgment to be in writing.

56. The judgment shall be written by the Judge with his own hand, in English or in Burmese, at the discretion of the Judge, and it shall be dated and signed by the Judge at the time it is delivered.

Contents of judgment.

57. The judgment shall contain the decision of the Court upon each issue, together with the grounds of the decision, and shall conclude with a decree clearly stating the relief granted or other determination of the suit:

Provided that, when the decision upon one or more issues is sufficient for the disposal of the suit, the Court may, in its discretion, abstain from pronouncing any decision upon the remaining issues.

Costs.

58. (*1*) The decree shall specify the costs payable and the parties by whom they are to be paid.

(*2*) In determining the amount of costs the Court shall not allow the remuneration of representatives appointed under section 20.

Allowance of interest.

59. When the suit is for a sum of money due to the plaintiff, the Court may in the decree order interest at such rate as it thinks fit to be paid on the principal sum adjudged from the date of suit to the date of decree in addition to any interest adjudged on the principal sum for any period prior to the date of suit, with further interest, at a rate not exceeding six per centum yearly, on the aggregate sum so adjudged and on the costs of the suit from the date of the decree to the date of payment.

Payment of amount of decree by instalments.

60. In a decree for the payment of money the Court may, for any sufficient reason, order that the amount due under the decree shall be paid by instalments with or without interest.

Contents of decree for moveable property.

61. Where in a suit for moveable property the decree is for the delivery of the property, the Court shall fix an amount of money to be paid as an alternative if delivery cannot be enforced.

Copies of judgment to be furnished to parties.

62. Certified copies of the judgment, and, in cases where the judgment is required to be translated, of the translation thereof, shall be furnished to the parties on their application and on payment by them of the cost of the copies.

Procedure in special Cases.

Attachment before judgment when defendant seeks to evade proceedings.

63. If a Court at any stage of a suit before judgment, is satisfied, upon such enquiry as it considers necessary, that the defendant, with intent to avoid or delay the plaintiff, or to obstruct or delay the execution of any decree which may be made against him in the suit, is about to leave the jurisdiction of the Court, or to dispose of any property, or to remove any moveable property from the jurisdiction of the Court, it may issue its warrant for the attachment of the property of the defendant, and may, unless the defendant gives security for the satisfaction of any decree which may be made against him, detain his property under attachment until judgment is pronounced.

Injunction against waste, damage or alienation of property in dispute.

64. If a Court at any stage of a suit before judgment, is satisfied, upon such enquiry as it considers necessary, that any property which is in dispute in the suit is in danger of being wasted, damaged or alienated by a party to the suit, it may issue an injunction to that party commanding him to refrain from the act of waste, damage or alienation, or make such order for the purpose of staying and preventing him from wasting, damaging or alienating the property, or for the care and custody thereof, as it deems fit.

Injunction against breach of contract or

65. In any suit for restraining the defendant from the committal of any breach of contract or other injury, the Court may at any time after the commencement of the suit, and either before or after judgment, and on such terms

committal of injury.

as it deems fit, issue an injunction restraining the defendant from the repetition or continuance of the breach of contract or the injury or the committal of any similar breach of contract or injury; and, in case of disobedience, the injunction may be enforced by attaching the property of the defendant and retaining it under attachment until he obeys the injunction.

Power to vary or set aside orders under section 63, 64 or 65, and to adjudge compensation to parties injured.

66. The Court may at any time vary or set aside an order made by it under any one of the three last foregoing sections; and if it is satisfied that any such order has been applied for and procured by any party on grounds known to the party to be insufficient, it may award against the party in its decree such amount, not exceeding two hundred rupees, as it deems a reasonable compensation to the party aggrieved by the order.

Power to add parties.

67. (*1*) It at any hearing of a suit it appears to the Court desirable that any person not already a party to the suit should be made a party thereto, it may direct that the person be made a plaintiff or defendant, as the case may be.

(*2*) Where a person is so made a plaintiff or defendant, the Court shall cause a summons to be served on him in the manner provided by this Regulation for the service of a summons on a defendant.

Certain suits triable with the aid of assessors.

68. Where a suit involves any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, it may be heard with the aid of assessors selected by the Court from the class to which the parties belong.

Miscellaneous.

Exemption of women from appearance in person.

69. Women who, according to the custom and manners of the class to which they belong, ought not to be compelled to appear in public shall be exempt from personal appearance in Court, whether as parties or as witnesses.

Power to Local Government to exempt from appearance in person.

70. The Local Government may, by notification in the official Gazette, exempt from personal appearance in Court, whether as a party or as a witness, any person whose rank appears to entitle him to the privilege of exemption, and may, by like notification, withdraw the privilege.

Filing of documents admitted in evidence.

71. (*1*) All documents admitted as evidence in a suit, other than entries in shop-books or other books, shall be filed with the record and shall not be returned to the parties without the written permission of the Court.

(*2*) A certified copy of any document so returned within three months from the date of the disposal of the suit shall be filed with the record.

Mode of admission in evidence of entry in book.

72. (*1*) When a party desires to put in evidence an entry in a shop-book or other book, he shall produce the book to the Court, together with a copy of the entry on which he relies.

(2) The Court shall forthwith mark the entry for the purpose of identification, and, having examined and compared the copy with it, shall file the copy with the record and return the book to the party producing it unless there seems to the Court to be cause for impounding it.

Execution of Decrees.

Mode of execution of decrees.

73. The Court shall, on application made by the decreeholder in writing, execute its decrees in the following manner, that is to say—

(*a*) a decree for property in the possession of the judgment-debtor, by giving possession of the property to the decreeholder, or

when the property is moveable, and possession of it cannot from any cause be given, by levying in the manner provided by this section for the execution of a decree for money, the amount fixed as an alternative under section 61;

(*b*) a decree for partition, by dividing the property and giving the decreeholder possession of his portion;

(*c*) a decree for money, by attaching the property of the judgment-debtor and selling it by auction;

(*d*) a decree for the performance of any act by the judgment-debtor, by attaching his property and retaining it under attachment.

Decree against sureties.

74. Whenever a person has become liable as surety for the performance of a decree or of any part thereof, the decree may be executed against him to the extent to which he has rendered himself liable, in the same manner as a decree may be enforced against a judgment-debtor.

Execution of *ex parte* decrees.

75. When an application is made for the execution of an *ex parte* decree, the Court may in its discretion, before ordering execution, require the applicant to give security for compensation for any injury that may be done in the course of the execution, or may issue a notice to the judgment-debtor to show cause why the decree should not be executed.

Execution of a decree out of the jurisdiction of the Court.

76. If a decree cannot be executed within the jurisdiction of the Court which passed it, that Court may transmit to any other Court a copy of the decree, together with—

(*a*) a certificate that satisfaction of the decree has not been obtained by execution within the jurisdiction of the Court which passed it, or has only been so obtained to an extent to be specified in the certificate, and

(*b*) a copy of any order for the execution of the decree or, if no such order has been made, a certificate to that effect,

and may request the Court to which those documents are transmitted to execute the decree as if it were a decree made by itself.

Execution of a decree of a Court beyond the limits of the district.

77. On receiving similar documents and a similar requisition from any Civil Court established in any part of British India beyond the limits of his jurisdiction, or established by the authority of the Governor General in Council in the territories of any foreign Prince or State, for the execution of a decree made by that Court, the Deputy Commissioner, or the Judge of any Civil Court under his control to whom he may transfer the matter for disposal, may execute the decree as if it had been made by himself.

Appeal.

Appeals from Courts of Circle Officers, Township Officers and Subdivisional Officers.

78. (*1*) A decree or order made in an original suit of value not exceeding twenty-five rupees by a Circle Officer, or in an original suit of value not exceeding fifty rupees by a Township Officer, or in an original suit of value not exceeding one hundred rupees by a Subdivisional officer, shall, subject to the provisions of this Regulation with respect to revision, be final.

(*2*) From every other decree or order of a Circle Officer, Township Officer or Subdivisional Officer in an original suit an appeal shall lie to the Court of the Deputy Commissioner.

(*3*) The Local Government may confer on a Subdivisional Officer the powers of a Court of a Deputy Commissioner for the purpose of receiving and hearing appeals from decrees and orders of Circle Officers and Township Officers in any local area, and may withdraw those powers.

Appeals from Courts of Deputy Commissioners.

79. (*1*) A decree or order made in an original suit of value not exceeding five hundred rupees by a Deputy Commissioner shall, subject to the provisions of this Regulation with respect to revision, be final.

(*2*) From every other decree or order of a Deputy Commissioner in an original suit an appeal shall lie to the Court of the Judicial Commissioner.

Appeals from appellate decrees and orders.

80. (*1*) Save as provided by this section, and subject to the provisions of this Regulation with respect to revision, an appellate decree or order of a Subdivisional Officer or Deputy Commissioner shall be final.

(*2*) An appeal from an appellate decree or order of a Deputy Commissioner in a suit of value exceeding one thousand rupees shall lie to the Court of the Judicial Commissioner.

Revision.

Revision.

81. (*1*) The Judicial Commissioner or Deputy Commissioner may, of his own motion or otherwise, call for the record of any case decided by a Court under his control in which an appeal does not lie or in which, for cause shown

to his satisfaction, an appeal has not been preferred within the time limited therefor, and may pass such order in the case as he thinks fit.

(*2*) A Deputy Commissioner who has been authorized in this behalf by the Local Government may, by order in writing, empower any Subdivisional Officer under his control to exercise the powers conferred on the Deputy Commissioner by sub-section (*1*) with respect to the decisions of all or any of the Courts of Circle Officers under the control of the Deputy Commissioner.

Distribution of Business and Transfer of Proceedings.

Power for Deputy Commissioner to distribute business.

82. A Deputy Commissioner may, by order, direct that any civil business cognizable by him and the Courts under his control shall be distributed among those Courts in such manner as he thinks fit:

Provided that no direction issued under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction.

Power for Judicial Commissioner and Deputy Commissioner to transfer proceedings.

83. (*1*) The Judicial Commissioner or Deputy Commissioner may withdraw any suit or other proceeding pending in any Court under his control and try it himself or refer it for disposal to any other Court under his control and competent to try it.

(*2*) Subject to such rules as the Judicial Commissioner may make in this behalf, the Deputy Commissioner of Mandalay, and, with the previous sanction of the Judicial Commissioner, any other Deputy Commissioner, may transfer any suit, whether pending before himself or in a Court under his control, to the Civil Court of Mandalay for disposal.

Power for Local Government to transfer business.

84. (*1*) The Local Government may, by order, direct that any civil business cognizable by a Deputy Commissioner shall be transferred to the Court of the Judicial Commissioner or of a Subdivisional Officer.

(*2*) Business so transferred shall be disposed of by the Judicial Commissioner or Subdivisional Officer, as the case may be, subject to the rules applicable to like cases when disposed of by the Deputy Commissioner.

Review.

Reviews.

85. (*1*) The Judicial Commissioner may, for sufficient reason, review any decree or order which has been passed by himself and from which an appeal has not been preferred to Her Majesty in Council.

(*2*) A Court subordinate to that of the Judicial Commissioner shall not review any decree or order made by it, except for the purpose of correcting a

clerical error or other error manifestly the result of an oversight, without previously obtaining—

(*a*) in the case of the Court of a Circle Officer, Township Officer or Subdivisional Officer, the permission of the Deputy Commissioner;

(*b*) in the case of the Court of a Deputy Commissioner, the permission of the Judicial Commissioner.

CHAPTER IV.

SUPPLEMENTAL PROVISIONS.

Pending cases how to be disposed of.

86. (*1*) Cases pending when this Regulation comes into force shall be disposed of by such of the Courts under this Regulation as the Local Government may direct, and shall be dealt with as nearly as may be in accordance with the provisions of this Regulation.

(*2*) But if in any such case it appears to the Court that the application of any provision in this Regulation would deprive any party of any right which, but for this Regulation, would have belonged to him, the Court may proceed as if this Regulation were not in force.

Law to be administered.

87. (*1*) When in any suit it is necessary for a Court under this Regulation to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution,—

the Buddhist law in cases where the parties are Buddhists,

the Muhammadan law in cases where the parties are Muhammadans, and

the Hindu law in cases where the parties are Hindus,

shall form the rule of decision, except in so far as that law has, by legislative enactment, been altered or abolished, or is opposed to any custom having the force of law in Upper Burma.

(*2*) In cases not provided for by sub-section (*1*) or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

Power for Judicial Commissioner to make rules.

88. (*1*) The Judicial Commissioner may, with the previous sanction of the Local Government, make rules consistent with this Regulation for regulating the practice and proceedings of his own Court and the Courts subordinate thereto.[a]

(*2*) The rules may regulate the following among other matters, namely:—

(*a*) the fees to be paid for processes;

[a] For rules under s. 88, see Burma Gazettes, 8th January, 1887, Pt. I, p. 12, 3rd September, 1887, Pt. I, p. 352, 10th September, 1887, Pt. I, p 363, 5th May, 1888, Pt. IV, p. 244, and Mandalay Supplement, 27th August, 1887, p. 430.

(*b*) the fees to be paid for copies and inspection of records; and

(*c*) the travelling and other expenses of witnesses.

Compliance by Judicial Commissioner with requisitions of Local Government.

89. The Judicial Commissioner shall comply with any requisitions which the Local Government may make for records of, or papers belonging to, his Court, or any Court subordinate thereto, or for certified copies of, or extracts from, those records or papers, or for returns, statements or reports, and shall act in compliance with any request which the Local Government may make to him with respect to the exercise of the powers conferred on him by section 4, sub-section (*3*), section 5, sub-section (*2*), and section 6, sub-section (*2*).

Miscellaneous proceedings.

90. The procedure to be observed by any Court under this Regulation in suits shall be followed, so far as it can be made applicable, in all proceedings in that Court other than suits.

Decrees and orders not reversible on technical grounds alone.

91. Notwithstanding anything in this Regulation, a decree or order shall not be reversed or altered on appeal or revision on account of an irregularity of procedure unless the irregularity has occasioned or is likely to occasion a failure of justice.

Powers exercisable from time to time.

92. Powers conferred by this Regulation may be exercised from time to time as occasion requires.

Transitory Provision.

Discharge of functions of High Court pending appointment of Judicial Commissioner.

93. Until a Judicial Commissioner is appointed for Upper Burma, the functions assigned to him by this Regulation shall be discharged by Commissioners in and for their respective divisions as for the time being defined under section 3 of the Upper Burma Laws Act, 1886.[a]

XX of 1886.

THE UPPER BURMA LAND ACQUISITION REGULATION, 1886.

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[a] See *supra*, p. 364.

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REGULATION No. IX OF 1886.

A Regulation to provide for the Acquisition of Land in Upper Burma for public purposes and for Companies.

Published in the Gazette of India of 23rd October, 1886, and in the Burma Gazette of 6th November, 1886.

WHEREAS it is expedient to provide for the acquisition of land in Upper Burma for public purposes and for Companies, and for determining the amount of compensation to be made on account thereof; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

1. (*1*) This Regulation may be called the Upper Burma Land Acquisition Regulation, 1886. Short title, extent and commencement.

(*2*) It extends to the whole of Upper Burma except the Shan States; and

(*3*) It shall come into force on such date, within three months from the time at which it may receive the Governor General's assent, as the Local Government may, by notification in the official Gazette, appoint in this behalf.[a]

Definitions. 2. In this Regulation, unless there is something repugnant in the subject or context,—

(*1*) "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth:

(*2*) "person interested" includes any person claiming an interest in compensation to be made on account of the acquisition of land under this Regulation:

(*3*) "Collector" means a Deputy Commissioner of a district, and includes any officer specially appointed by the Local Government to perform the functions of a Collector under this Regulation:

(*4*) "Company" means a Company registered under the Indian Companies Act, 1882, or formed in pursuance of an Act of Parliament, or by Royal Charter or Letters Patent: VI of 1882.

(*5*) "local fund" means any public fund of which the control or management is entrusted by the Government to any local officer or authority:

(*6*) "Part" and "section" mean respectively a Part and a section of this Regulation:

(*7*) "person", "year", "month", "Local Government", "Magistrate" and "imprisonment" have the meanings assigned to them respectively in section 2 of the General Clauses Act, 1868: I of 1868.

(*8*) words importing the masculine gender shall be taken to include females, and words in the singular shall include the plural, and *vice versâ*; and

(*9*) the following persons shall be deemed persons "entitled to act" as and to the extent in this clause provided (that is to say):—

(*a*) trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability;

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[a] The Regulation came into force on the 6th November, 1886—see Burma Gazette, 6th *idem*, Pt. I, p. 338.

(*b*) a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age; and

(*c*) the guardians of minors and the committees of lunatics or idots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted.

PART II.

ACQUISITION.

Preliminary Investigation.

Procedure and powers of officers when land is likely to be needed for public purpose.

3. (*1*) Whenever it appears to the Local Government that land in any locality is likely to be needed for any public purpose, a notification to that effect shall be published in such manner as the Local Government may direct, and the Collector shall cause public notice of the substance of the notification to be given at convenient places in that locality.

(*2*) Thereupon it shall be lawful for any officer, either generally or specially authorized by the Local Government in this behalf, and for his servants and workmen,—

(*a*) to enter upon and survey and take levels of any land in the locality;

(*b*) to dig or bore into the subsoil;

(*c*) to do all other acts necessary to ascertain whether the land is adapted for the purpose notified;

(*d*) to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;

(*e*) to mark the levels, boundaries and line by placing marks and cutting trenches; and,

(*f*) where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving the occupier at least seven days' notice in writing of his intention to do so.

Payment for damage done in exercise of

4. The officer authorized under the last foregoing section shall at the time of his entry under that section pay or tender payment for all necessary damage

powers under last foregoing section.

which may be done by him or his servants or workmen, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the Collector, whose decision shall be final.

Declaration of intended Acquisition.

Declaration that land is needed for a public purpose.

5. (*1*) Subject to the provisions of Part VI, whenever it appears to the Local Government that any particular land is needed for a public purpose or for a company, a declaration shall be made to that effect under the signature of a Secretary to the Local Government, or of some officer duly authorized to certify its orders:

Provided that a declaration shall not be made under this section unless the compensation to be awarded for the property is to be paid out of public revenues or out of some local fund, or by a Company.

(*2*) The declaration shall be published in such manner as the Local Government may direct, and shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan has been made of the land, the place where the plan may be inspected.

(*3*) A declaration under this section shall be conclusive proof that the land is needed for a public purpose, or for a Company, as the case may be; and, after making the declaration, the Local Government may acquire the land in manner hereinafter appearing.

After declaration Collector to take order for acquisition.

6. Whenever any land has been so declared to be needed for a public purpose, or for a Company, the Local Government, or some officer authorized by the Local Government in this behalf, shall direct the Collector to take order for the acquisition of the land.

Marking and measuring of the land.

7. The Collector shall thereupon cause the land (unless it has been already marked out under section 3) to be marked out. He shall also cause it to be measured, and (if no plan has been made) a plan to be made thereof.

Notice to persons interested in the land.

8. (*1*) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in the land may be made to him.

(*2*) A notice under sub-section (*1*) shall state the particulars of the land needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (the time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for those interests.

(*3*) The Collector shall also serve notice to the same effect on the occupier (if any) of the land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside, or have agents authorized to receive service on their behalf, within the revenue district in which the land is situate.

(*4*) In case any person so interested resides elsewhere, and has no such agent as aforesaid, the notice shall be sent to him by post.

Power to require persons interested to deliver statements of names and interests of other persons.

9. The Collector may also require any person referred to in sub-section (*3*) or sub-section (*4*) of the last foregoing section to deliver to him a statement, containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of that interest, and of the rents and profits (if any) received or receivable on account thereof for the year next preceding the date of the statement.

Obligation to make or deliver statements respecting interests.

10. A person required to make or deliver a statement under section 8 or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code. XLV of 1860.

Inquiry into Value and Claims, and Award by Collector.

Inquiry into value and award of compensation.

11. (*1*) On the day mentioned in the notice under section 8, sub-section (*1*), the Collector shall proceed to inquire into the value of the land and to determine the amount of compensation to be allowed therefor, and shall make and sign an award for the same.

(*2*) For the purpose of an inquiry under this section, the Collector may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as may be, in the same manner as is provided by the Upper Burma Civil Justice Regulation, 1886,[a] in the case of a Civil Court. VIII of 1886.

Adjournment of inquiry.

12. The Collector may, if no claimant attend pursuant to the notice, or if for any other cause he thinks fit, from time to time postpone the inquiry to a day to be fixed by him.

Matters to be respectively regarded and disregarded in determining compensation.

13. (*1*) In determining the amount of compensation to be awarded for land acquired under this Regulation, the Collector shall take into consideration—

First, the market-value of the land at the time of the award;

Secondly, the damage (if any) sustained by the person interested, at the time of the award, by reason of the severance of the land from his other land;

[a] See ss. 48, 49, 50 and 53 of Reg. VIII of 1886, *supra*, p. 393.

Thirdly, the damage (if any) sustained by the person interested, at the time of the award, by reason of the acquisition injuriously affecting his other property, whether moveable or immoveable, in any other manner, or his earnings; and

Fourthly, if, in consequence of the acquisition, the person interested is compelled to change his residence, the reasonable expenses (if any) incidental to the change.

(*2*) But the Collector shall not take into consideration—

First, the degree of urgency which has led to the acquisition; or

Secondly, any disinclination of the person interested to part with the land acquired; or

Thirdly, any damage sustained by him which, if caused by a private person, would not render the person liable to a suit; or

Fourthly, any damage which, after the time of the award, is likely to be caused by or in consequence of the use to which the land acquired will be put; or

Fifthly, any increase to the value of the land acquired likely to accrue from the use to which the land will be put when acquired; or

Sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put; or

Seventhly, any outlay or improvements on the land made, commenced or effected with the intention of enhancing the compensation to be awarded therefor under this Regulation.

Taking Possession.

Power to take possession after award in ordinary cases.

14. When the Collector has made an award he may take possession of the land, which shall thereupon vest absolutely in the Government free from all incumbrances.

Power to take possession in cases of urgency.

15. (*1*) In cases of urgency, whenever the Local Government so directs, the Collector may, on the expiration of fifteen days from the publication of the notice mentioned in section 8, sub-section (*1*), take possession of any waste or arable land needed for public purposes or for a Company.

(*2*) The land shall thereupon vest absolutely in the Government free from all incumbrances.

(*3*) The Collector shall offer to the persons interested compensation for the standing crops and trees (if any) on the land; and in case the offer is not accepted the value of the crops and trees shall be allowed for in awarding compensation for the land under the provisions of this Regulation.

(Part III.—Apportionment of Compensation. Secs. 16-17. Part IV.—Payment. Secs. 18-20. Part V.—Temporary Occupation of Land. Sec. 21.)

PART III.

Apportionment of Compensation.

Particulars of apportionment to be specified in the award.

16. Where there are several persons interested, if they agree in the apportionment of the compensation, the particulars of the apportionment shall be specified in the award, and as between them the award shall be conclusive evidence of the correctness of the apportionment.

Dispute as to apportionment.

17. When the amount of compensation has been settled, if any dispute arises as to the apportionment of the same or any part thereof, the Collector shall decide the dispute.

PART IV.

Payment.

Persons to whom payment of compensation is to be made.

18. Payment of the compensation shall be made by the Collector according to the award to the persons named therein:

Provided that nothing in this section shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this Regulation to pay the same to the person lawfully entitled thereto.

Time for payment of compensation.

19. When the amount of the compensation has been settled, if the persons interested so desire, the Collector shall on making the award pay the amount of the compensation and take possession of the land:

Provided that, in any case where immediate possession is not required, he may allow the occupants (if any) of the land to remain in occupation thereof upon such terms as he and they may agree on, until possession of the land is required.

Percentage on market-value and interest.

20. (*1*) In addition to the amount of any compensation awarded under this Regulation, the Collector shall, in consideration of the compulsory nature of the acquisition, pay fifteen per centum on the market-value mentioned in section 18, sub-section (*1*).

(*2*) When the amount of the compensation is not paid on possession being taken, the Collector shall pay the amount awarded and the percentage referred to in sub-section (*1*) with interest on the amount and percentage at the rate of six per centum yearly from the time of possession being taken.

PART V.

Temporary Occupation of Land.

Temporary

21. (*1*) Subject to the provisions of Part VI, whenever it appears to the

occupation of waste or arable land.

Local Government that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a Company, the Local Government may direct the Collector to procure the occupation and use of the land for such term as it thinks fit, not exceeding three years from the commencement of the occupation.

(*2*) The Collector shall thereupon give notice in writing to the persons interested in the land of the purpose for which the land is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments, as he thinks just.

Taking and restoring possession of the land.

22. (*1*) On payment of compensation under the last foregoing section the Collector may enter upon and take possession of the land, and use it or permit the use thereof in accordance with the terms of the notice.

(*2*) On the expiration of the term of occupation and use, the Collector shall make or tender to the persons interested such compensation for the damage (if any) done to the land as he thinks just, and shall restore the land to the persons interested therein:

Provided that, if the land has, in the opinion of the Collector, become permanently unfit to be used for the purpose for which it was used immediately before the commencement of that term, and if the persons interested so require, the Local Government shall proceed under this Regulation to acquire the land as if it were needed permanently for a public purpose or for a Company.

PART VI.

Acquisition of Land for Companies.

Procedure when Company desires to acquire land.

23. (*1*) Subject to such rules as the Governor General in Council may from time to time prescribe in this behalf, the Local Government may authorize any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by section 3.

(*2*) In every case referred to in sub-section (*1*), section 3, sub-section (*2*), clause (*c*), shall be construed as if for the words "for the purpose notified" the words "for the purposes of the Company" were substituted; and section 4 shall be construed as if after the words "the officer" the words "of the Company" were inserted.

Conditions

24. The provisions of this Regulation shall not be put in force in order to

acquire land for any Company, unless with the previous consent of the Local Government, and unless the Company has executed the agreement mentioned in section 26. Previous consent to acquisition by Company.

25. (*1*) Consent under the last foregoing section shall not be given unless the Local Government is satisfied by inquiry— Previous inquiry.

(*a*) that the acquisition is needed for the construction of some work; and

(*b*) that the work is likely to prove useful to the public.

(*2*) The inquiry under this section shall be held by such officer and at such time and place as the Local Government may appoint.

(*3*) The officer appointed in this behalf may summon and enforce the attendance of witnesses, and compel the production of documents, by the same means and, as far as may be, in the same manner as is provided by the Upper Burma Civil Justice Regulation, 1886,[a] in the case of a Civil Court. VIII of 1886.

26. (*1*) An officer holding an inquiry under the last foregoing section shall report to the Local Government the result of the inquiry, and if the Local Government is satisfied that the proposed acquisition is needed for the construction of a work, and that the work is likely to prove useful to the public, it shall, subject to such rules as the Governor General of India in Council may from time to time prescribe in this behalf, require the Company to enter into an agreement with the Secretary of State for India in Council providing to the satisfaction of the Local Government for the following matters, namely:— Agreement with Secretary of State in Council.

(*a*) the payment to the Government of the cost of the acquisition;

(*b*) the transfer of the land to the Company on that payment being made;

(*c*) the terms on which the land is to be held by the Company;

(*d*) the time within which, and the conditions on which, the work is to be executed and maintained; and

(*e*) the terms on which the public is to be entitled to use the work.

(*2*) An agreement entered into under this section shall, as soon as may be after its execution, be published in the local official Gazette, and shall thereupon (so far as regards the terms on which the public is to be entitled to use the work) have the same effect as if it had formed part of this Regulation. Publication of agreement.

PART VII.

MISCELLANEOUS.

27. (*1*) Service of a notice under this Regulation shall be made by Service of notices.

[a] See ss. 48, 49, 50 and 53 of Reg. VIII of 1886, *supra*, pp 393.

delivering or tendering a copy thereof signed, in the case of a notice under section 3, by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector.

(*2*) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(*3*) When that person cannot be found, the service may be made on any adult male member of his family residing with him; and, if an adult male member cannot be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business.

Penalty for obstructing person acting under section 3 or 7.

28. If any person wilfully obstructs the doing of any of the acts authorized by section 3 or section 7, or wilfully fills up, destroys, damages or displaces any trench or mark made under section 3, sub-section (*2*), clause (*c*), he shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Application of enactments relating to fines.

29. The provisions of sections 68 to 70, both inclusive, of the Indian Penal Code, and of sections 386 to 389, both inclusive, of the Code of Criminal Procedure, 1882, shall apply to fines imposed under this Regulation. XLV of 1860. X of 1882.

Magistrate to enforce surrender in case of opposition.

30. If the Collector is opposed or impeded in taking possession under this Regulation of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and, if not a Magistrate, he shall apply to a Magistrate, and the Magistrate to whom the application is made shall enforce the surrender of the land to the Collector.

Payment of compensation where acquisition is not completed.

31. (*1*) Except in the case mentioned in the proviso to section 22, nothing in this Regulation shall be taken to compel the Government to complete the acquisition of any land unless an award has been made under the provisions of this Regulation.

(*2*) But, whenever the Government declines to complete an acquisition, the Collector shall determine the amount of compensation due for the damage (if any) done to the land under section 3 or section 7, and not already paid for under section 4, and shall pay the amount to the person injured.

Part of house or building not to be taken.

32. The provisions of this Regulation shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desires that the whole of the house, manufactory or building be acquired thereunder.

Payment of Collector's charges by local fund or Company.

33. Where the provisions of this Regulation are put in force for the purpose of acquiring land at the cost of any local fund, or of any Company, the charges incurred by the Collector in the acquisition shall be defrayed from or by the fund or Company.

Exemption from stamp-duty and fees.

34. No award or agreement made under this Regulation shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy thereof.

Bar of suits.

35. (*1*) No suit shall be brought to set aside an award under this Regulation.

(*2*) And no suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Regulation without one month's previous notice in writing to the person of the intended proceeding and of the cause thereof, or after tender of sufficient amends.

Making and publication of rules.

36. (*1*) The Local Government may make rules consistent with this Regulation for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules.

(*2*) All rules, alterations and additions made under this section shall, when sanctioned by the Governor General in Council, be published in the local official Gazette, and shall thereupon have the force of law.

(*3*) Rules may be made under this section at any time after this Regulation has received the assent of the Governor General, but a rule so made shall not have effect until this Regulation comes into force.

Power of revision of proceedings of Collectors.

37. An appeal shall not lie from any order passed by a Collector under this Regulation; but the Local Government, or any officer authorized by the Local Government in this behalf, may call for the proceedings of the Collector in any case, and, after such inquiry, if any, as may seem necessary, revise or cancel any order passed by the Collector, or refer any point arising in the proceedings for decision by any Civil Court in Upper Burma.

REGULATION No. I OF 1887.

A Regulation to provide for the Registration of Documents relating to the Transfer of Immoveable Property in Upper Burma.

Received the Governor General's assent on the 11th January, 1887; published in the Gazette of India of the 15th idem; and in the Burma Gazette of the 29th idem.

WHEREAS it is expedient to provide for the registration of documents relating to the transfer of immoveable property in Upper Burma; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Regulation may be called the Upper Burma Registration Regulation, 1887.

(*2*) It extends to the whole of Upper Burma except the Shan States; and

(*3*) It shall come into force at once.

Definition.

2. In this Regulation the expression "immoveable property" includes lands, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops or grass.

Power for Local Government to notify documents required to be registered.

3. The Local Government may from time to time, with the previous sanction of the Governor General in Council, by notification in the official Gazette, declare, with respect to documents of any class described in the notification, that documents of that class executed on or after a date to be prescribed by the notification, and purporting or operating to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, to or in immoveable property situate in any part of Upper Burma specified in the notification, shall be registered in accordance with the provisions of this Regulation.[a]

Effect of not registering documents required to be registered.

4. A document required by a notification under the last foregoing section to be registered shall not affect any immoveable property comprised therein, or be received as evidence of any transaction affecting that property, unless it has been registered in accordance with the provisions of this Regulation.

Power for Local Government to cancel or vary notification under section 3.

5. (*1*) The Local Government may at any time, with the previous sanction of the Governor General in Council, by notification in the official Gazette, cancel or vary, with effect on and from a date to be prescribed by the notification, any notification under section 3.

(*2*) A notification under this section shall not exempt a document which was required to be, but was not, registered in accordance with the provisions of this Regulation from either of the effects under section 4 of its not having been registered in accordance with those provisions.

Power for Local Government to establish registration-offices and appoint registering-officers.

6. (*1*) The Local Government may, for the purposes of this Regulation, by notification in the official Gazette, from time to time establish such registration-offices, and appoint such persons, either by name or by office, to be registering-officers, as it thinks fit.

(*2*) A registering-officer appointed under this Regulation may be suspended or removed by the Local Government.

(*3*) A registering-officer appointed under this Regulation shall be deemed to be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

[a] Under s. 3 the Local Government has declared that all non-testamentary instruments executed on or after the 23rd July, 1887, affecting immoveable property situate in the town of Mandalay, shall be registered in accordance with the provisions of this Regulation, and that the limits of the town of Mandalay for this purpose shall be the same as the limits of the local area subject to the ordinary original jurisdiction of the Civil Court of Mandalay—see Burma Gazette, 23rd July, 1887, Pt. I, p. 303, and Reg. VIII of 1886, s. 10 (*2*), *supra*, p. 386.

Power for Local Government to make rules.

7. (*1*) The Local Government may from time to time, with the previous sanction of the Governor General in Council, make rules to regulate the registration of documents under this Regulation.

(*2*) Rules under this section may, among other matters,—

(*a*) define the time, place and mode of presenting documents for registration;

(*b*) regulate the duties and powers of registering-officers, and specify the cases in which those officers may enforce the appearance of executants and witnesses; and

(*c*) fix the fees payable for registration, searches and copies, and the time when fees shall be payable.

(*3*) Rules under this section shall be published in the official Gazette, and shall thereupon have the force of law.[a]

III of 1877. (*4*) The provisions of sections 81 and 82 of the Indian Registration Act, 1877, regarding offences by registering-officers and other persons, shall, so far as they can be made applicable, apply to like offences when committed with respect to the registration of documents in pursuance of rules under this section.

THE UPPER BURMA MUNICIPAL REGULATION, 1887.

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REGULATION No. V OF 1887.

A Regulation to provide for the constitution of Municipal Committees in Upper Burma.

Received the Governor General's assent on the 30th June, 1887; published in the Gazette of India of the 2nd July, 1887; and in the Burma Gazette of the 16th idem.

WHEREAS it is expedient to provide for the constitution of municipal committees in towns in Upper Burma, and for police, conservancy, improvements and education in those towns, and for the levying of taxes therein; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Title and commencement.

1. (*1*) This Regulation may be called the Upper Burma Municipal Regulation, 1887; and

(*2*) It shall come into force at once.

Definition.

2. In this Regulation, "committee" means a committee constituted under this Regulation.

Application of Regulation.

3. (*1*) The Local Government may, by notification in the official Gazette, apply this Regulation, or any of its provisions, to any town in any part of

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Upper Burma except the Shan States, and may vary or cancel the notification.[a]

(*2*) For the purposes of this section the Local Government may, by notification in the official Gazette, declare any place to be a town, and define the limits of any town.

PART II.

Constitution, Duties and Powers of Committees.

Constitution of committee.

4. (*1*) In a town to which this Regulation applies there shall be constituted a committee consisting of a president, vice-president and so many other members as the Local Government thinks fit.

(*2*) The president, vice-president and members shall be appointed by the Local Government.

(*3*) The Local Government may remove the president or vice-president or any other member of a committee.

Power to impose taxes.

5. (*1*) Subject to the provisions of this section and to any general rules or special orders which the Governor General in Council may make in this behalf, a committee may impose taxes for the purposes of this Regulation.

(*2*) When a committee proposes to impose a tax, it shall submit its proposal for the approval of the Local Government.

(*3*) If the proposal is approved by the Local Government, the committee shall publish a notice thereof, and in the notice define the persons or property within the town to be taxed, and the amount or rate of the tax to be imposed.

(*4*) Any inhabitant of the town objecting to the proposed tax may, within a fortnight from the publication of the notice, submit his objection in writing to the president of the committee, and the committee shall take the objection into consideration.

(*5*) If no objection is submitted within the said period of a fortnight under

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[a] This Regulation has been applied under s. 3 (*1*) to the following towns :—

Mandalay	—see Burma Gazette, 30th July, 1887, Pt. I, p. 313.	
Taungdwingyi, Myingyan and Yetagyo	ditto,	19th November, 1887, Pt. I, pp. 448 and 449.
Pagan and Pakôkku	ditto,	24th December, 1887, Pt. I, p. 499.
Salin	ditto,	14th January, 1888, Pt. I, p. 17.
Shwebo	ditto,	4th February, 1888, Pt. I, p. 41.
Kyaukse	ditto,	18th February, 1888, Pt. I, p. 79.
Pyinmana and Sagaing	ditto,	7th April, 1888, Pt. I, pp. 145 and 146.
Bhamo, Myinmu and Mongwa	ditto,	28th April, 1888, Pt. I, pp. 172 and 173.
Yamèthin	ditto,	2nd June, 1888, Pt. I, p. 234.
Minbu	ditto,	18th August, 1888, Pt. I, p. 384.

sub-section (*4*), or if the objections so submitted, having been considered as aforesaid, are deemed insufficient, the committee may re-submit its proposal to the Local Government, with the objections, if any, which have been submitted as aforesaid.

(*6*) The Local Government, on receiving the proposal under sub-section (*5*), may sanction it as received or with such amendments as it thinks fit, or refuse to sanction it, or return it to the committee for further consideration.

(*7*) When the proposal of the committee has been sanctioned by the Local Government, the committee may direct the imposition of the tax in accordance with the proposal.

Power of Local Government to make rules for assessment and collection of taxes.

6.[a] The Local Government may make rules—

(*a*) as to the person by whom, and the manner in which, the assessment of any tax under this Regulation is to be confirmed; and

(*b*) for the collection of the tax;

and the tax shall not be collected until the assessment thereof has been confirmed by the person and in the manner for the time being prescribed by the rules.

Recovery of taxes.

7. An arrear of any tax imposed under this Regulation may be recovered, on application to a Magistrate, by the distress and sale of any moveable property belonging to the defaulter.

Municipal fund.

8. (*1*) All sums received by the committee of a town to which this Regulation appplies, and all fines levied for offences in the town against this Regulation, shall constitute a fund, which shall be called the municipal fund of the town, and shall, together with all property which may become vested in the committee, be under the control of the committee, and be applied by the committee as trustees for the purposes of this Regulation.

(*2*) In places where there is a Government treasury, or a bank to which the Government treasury business has been made over, the municipal fund shall be kept in the treasury or bank.

(*3*) In places where there is no such treasury or bank, the fund may be deposited with any banker, or person acting as a banker, who has given such security for the safe custody and repayment on demand of the fund so deposited as the Local Government in each case thinks sufficient.

(*4*) Save as provided by any rules which the Local Government may make in this behalf, a disbursement of the municipal fund or any part thereof shall not be made except under the signature of the president or vice-president and one other member of the committee.

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[a] For rules under s. 6 (*a*) and (*b*), see Burma Gazette, 9th February, 1889, Pt. I, p. 62.

Duties and powers of committee.

9. The committee, so far as the municipal fund at its disposal permits, shall in the first place—

(*a*) make provision out of the fund for a police-establishment;

and shall then—

(*b*) keep the public streets, roads, drains, tanks and watercourses of the town clean and in repair;

and may then—

(*c*) do all acts and things necessary for the construction, repair and maintenance of local public works of general utility;

(*d*) make provision, by the establishment of new schools or the aiding of already existing schools or otherwise, for the promotion of education; and

(*e*) generally do all acts and things calculated to promote the health, comfort or interests of the inhabitants of the town.

Provision for police and conservancy.

10. The committee shall set apart out of the municipal fund such sum as the Local Government requires for the purposes specified in clauses (*a*) and (*b*) of the last foregoing section.

Power of committee to make rules as to business and officers.

11. A committee may make rules for regulating—

(*a*) the time and place of its meetings;

(*b*) the conduct of its business;

(*c*) the division of duties among the members of the committee;

(*d*) the duties, salaries, appointment, suspension and removal of the officers and servants of the committee; and

(*e*) other similar matters.

Power of committee to make rules for other purposes.

12. (*1*) A committee may, with the previous sanction of the Local Government, make rules—

(*a*) for declaring what acts or omissions within the limits of the town are to be deemed to be public nuisances;

(*b*) for defining the cases, manner and times in and at which the officers of the committee may enter upon private property for the detection and abatement of nuisances;

(*c*) for controlling the establishment of bázárs in the town;

(*d*) for regulating the materials used in building or thatching houses and for enforcing precautions necessary for the prevention of fire;

(*e*) for securing a proper registration of births and deaths; and

(*f*) for carrying out all or any of the purposes of this Regulation.

(*2*) The committee may, from time to time, with the like sanction, repeal, alter or add to any rules made under this section.

Power of Local Government to make rules for general purposes.

13.[a] (*1*) In addition to any other power to make rules conferred expressly or by implication by this Regulation, the Local Government may make rules—

(*a*) as to the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of committees, and as to the authority by which, and the conditions subject to which, such plans and estimates may be sanctioned;

(*b*) as to the accounts to be kept by committees and as to the audit of those accounts;

(*c*) as to the preparation of estimates of income and expenditure of committees, and as to the authority by which, and the conditions subject to which, such estimates may be sanctioned;

(*d*) as to the returns, statements and reports to be submitted by committees; and

(*e*) generally for the guidance of committees and public officers in all matters connected with the carrying out of this Regulation.

(*2*) The Local Government may repeal, alter or add to any rules made under this section.

Power to enter on private property.

14. The officers of the committee shall have power to enter upon private property, for the detection and abatement of nuisances, when the committee has under section 12, clause (*b*), made rules regulating the exercise of that power.

Power of Local Government to control committee.

15. The Local Government may, by order, limit any of the powers of any committee, cancel any of the rules or proceedings of any committee, and abolish, remit or reduce any tax which any committee has imposed.

PART III.

Legal Proceedings.

Suits by and against committee.

16. A committee shall sue and be sued in the name of its president.

Contracts of committee.

17. (*1*) Subject to any rules made by the Local Government in this behalf, every contract made on behalf of a committee in respect of any sum or property exceeding twenty rupees in amount or value shall be in writing, and shall be signed by the president or vice-president and at least two other members of the committee.

(*2*) A contract not executed in accordance with the provisions of sub-section (*1*) shall not be binding on the committee on whose behalf it is made.

[a] For rules under s. 13, see Burma Gazettes, 21st January, 1888, Pt. I, p 27, 14th April, 1888, Pt. I, p. 154, 26th May, 1888, Pt. I, p. 209, and 6th October, 1888, Pt I, p. 448.

Liability of members of committee.

18. (*1*) A member of a committee shall not be personally liable for any contract made or expense incurred by or on behalf of the committee, but the funds from time to time in the hands of the committee shall be liable for, and chargeable with, contracts made as required by the last foregoing section.

(*2*) A member of a committee shall be liable for any loss, waste or misapplication of money or other property entrusted to the committee, if the loss, waste or misapplication is a direct consequence of his neglect or misconduct; and a suit for compensation may be instituted against him by the committee with the previous sanction of the Commissioner or by the Secretary of State for India in Council.

Bar of suit in absence of notice of cause thereof.

19. (*1*) A suit shall not be brought against a committee or any of its officers, or any person acting under its direction, for anything done, or purporting to be done, under this Regulation, until the expiration of one month next after notice in writing has been delivered or left at the office of the committee, or at the place of abode of the person, stating the cause of suit and the name and place of abode of the intended plaintiff.

(*2*) Unless the notice of suit is proved, the Court shall find for the defendant.

(*3*) Every suit referred to in sub-section (*1*) shall be commenced within three months next after the accrual of the right to sue, and not afterwards.

(*4*) If a person to whom notice of suit is given under this section tenders, before the suit is brought, sufficient amends to the plaintiff, the suit shall be dismissed.

PART IV.

PENALTIES.

Penalty on member or servant of committee being interested in contracts with committee.

20. A member or servant of a committee shall not be interested, directly or indirectly, in any contract made with the committee; and if he is so interested he shall thereby become incapable of continuing in office or in employment as a member or servant of the committee, and shall be liable to fine which may extend to five hundred rupees:

Provided that a person, by being a shareholder in, or member of, any incorporated or registered company shall not be disqualified from acting as a member or servant of a committee by reason of any contract entered into between the company and the committee:

Provided also that a shareholder in, or member of, a company shall not act as a member of the committee in any matter relating to any contract entered into between the committee and the company.

Penalty for infringement of rules under section 12.

21. (*1*) If any person infringes any rule made under section 12, or is guilty of any act or omission which under any rule under clause (*a*) of sub-section (*1*) of that section is to be deemed to be a public nuisance, he shall be punished with fine which may extend to fifty rupees, and, in the case of a continuing infringement, or of a continuing act or omission, with a further fine which may extend to five rupees for every day after notice of the infringement or of the act or omission has been given to him by the committee.

(*2*) In default of payment of any fine imposed under this section, the defaulter shall be punished with simple imprisonment for a term which may extend to eight days.

Prosecutions.

22. Prosecutions for offences under the last foregoing section may be instituted before any Magistrate by the committee or by any person authorized by the committee in this behalf.

THE UPPER BURMA FOREST REGULATION, 1887.

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REGULATION No. VI OF 1887.

A Regulation to provide a law relating to forests, forest-produce and the duty leviable on timber in Upper Burma.

Received the Governor General's assent on the 2nd July, 1887; published in the Gazette of India of the 9th idem; and in the Burma Gazette of the 23rd idem.

WHEREAS it is expedient to provide a law relating to forests, forest-produce and the duty leviable on timber in Upper Burma; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Regulation may be called the Upper Burma Forest Regulation, 1887.

(*2*) It extends to the whole of Upper Burma except the Shan States:[a]

Provided that the Local Government may, by notification in the official Gazette, exempt any place from its operation, and withdraw such exemption; and

(*3*) It shall come into force on such day as the Local Government, by notification in the official Gazette, directs.[b]

(*4*) A notification under the proviso to sub-section (*2*) exempting a place from the operation of this Regulation shall not affect anything done, or any offence committed, or any fine or penalty imposed in such place before such exemption.

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[a] This Regulation has since been extended to the Shan States—see Appendix, Pt. III, *infra*, p. 500.

[b] The Regulation came into force on the 15th August, 1887—see Burma Gazette, 13th *idem*, Pt. I, p. 322.

Definitions.

2. In this Regulation, and in all rules made thereunder, unless there is something repugnant in the subject or context,—

(*1*) "Forest-officer" means any person appointed by name or as holding an office by or under the orders of the Governor General in Council or the Local Government to be a Conservator, Deputy Conservator, Assistant Conservator, Sub-Assistant Conservator, Forest-ranger, Forester or Forest-guard, or to discharge any function of a Forest-officer under this Regulation or any rule thereunder:

(*2*) "tree" includes also bamboos, stumps and brushwood:

(*3*) "timber" includes trees when they have fallen or been felled, and all wood, whether the wood is in log or has been shaped or hollowed or converted into charcoal or applied to any other use:

(*4*) "forest-produce" includes trees, timber, plants, grass, peat, canes, creepers, reeds, leaves, moss, flowers, fruits, seeds, roots, juice, catechu, bark, caoutchouc, gum, wood-oil, resin, varnish, lac, honey, wax, surface-oil and minerals (including limestone and laterite):

(*5*) "forest-offence" means an offence punishable under this Regulation or any rule thereunder:

(*6*) "cattle" includes also elephants, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids:

(*7*) "river" includes also streams, canals, creeks and other channels natural or artificial:

(*8*) "land at the disposal of the Government" means—

(*a*) land in respect of which no person has acquired a permanent, heritable and transferable right of use and occupancy under any law for the time being in force;

(*b*) land in respect of which no person has acquired any right created by grant or lease made or continued by, or on behalf of, the British Government: and

(*9*) "Magistrate" means a Magistrate of the first or second class, and includes a Magistrate of the third class when he is specially empowered by the Local Government to try forest-offences.

CHAPTER II.

Reserved Forests.

Power to constitute reserved forests.

3. The Local Government may constitute any land at the disposal of the Government a reserved forest in manner hereinafter provided.

Notification by Local Government of proposal to constitute a reserved forest.

4. (*1*) Whenever it is proposed to constitute any land a reserved forest, the Local Government shall publish a notification in the official Gazette—

(*a*) specifying as nearly as possible the situation and limits of such land :

(*b*) declaring that it is proposed to constitute such land a reserved forest ;

(*c*) appointing an officer (hereinafter called the Forest-settlement-officer) to inquire into and determine the existence, nature and extent of any rights claimed by, or alleged to exist in favour of, any person in or over any land comprised within such limits, and any claims relating to the practice within such limits of taungya-cultivation, and to deal with the same as provided in this Chapter.

(*2*) The Forest-settlement-officer shall ordinarily be a person other than a Forest-officer, but a Forest-officer may be appointed by the Local Government to assist the Forest-settlement-officer in the inquiry prescribed by this Chapter.

Proclamation by Forest-settlement-officer.

5. When a notification has been published under section 4, the Forest-settlement-officer shall publish in the language of the country, at the head-quarters of each township in which any portion of the land comprised in such notification is situate, and in every town and village in the neighbourhood of such land, a proclamation—

(*a*) specifying as nearly as possible the situation and limits of the proposed forest ;

(*b*) setting forth the substance of the provisions of the next following section ;

(*c*) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest ; and

(*d*) fixing a period of not less than three months from the date of the publication of such proclamation, and requiring every person claiming any right or making any claim referred to or mentioned in section 4 either to present to such officer within such period a written notice specifying, or to appear before him within such period and state, the nature of such right or claim.

Bar of accrual of forest-rights after proclamation.

6. (*1*) During the interval between the publication of such proclamation and the date fixed by the notification declaring the forest to be reserved as hereinafter provided, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by, or on behalf of, the Government or some person in whom such right or power to create such right was vested when the proclamation was published ; and on such land no new house shall be built or plantation formed, no fresh clearings for cultivation or for any other purpose

shall be made, and no trees shall be cut for the purpose of trade or manufacture except as hereinafter provided.

(*2*) Nothing in this section shall be deemed to prohibit any act done with the permission in writing of the Forest-settlement-officer, or any clearings lawfully made for taungya-cultivation by persons in the habit of practising such cultivation on such land.

Inquiry by Forest-settlement-officer.

7. (*1*) The Forest-settlement-officer shall take down in writing all statements made under section 5, and shall inquire into all claims made under that section, and the existence of any right or practice mentioned in section 4 in respect of which no claim is made.

(*2*) The Forest-settlement-officer shall at the same time consider and record any objection which the Forest-officer, if any, appointed under section 4 to assist him may make to any such claim or with respect to the existence of any such right or practice.

Powers of Forest-settlement-officer.

8. For the purposes of such inquiry the Forest-settlement-officer may exercise—

(*a*) the powers of a Demarcation-officer under the Burma Boundaries Act, 1880;[a] and V of 1880.

(*b*) the powers conferred on a Civil Court by the Upper Burma Civil Justice Regulation, 1886[b], for compelling the attendance of witnesses and the production of documents. VIII of 1886.

Treatment of claims relating to practice of taungya-cultivation.

9. (*1*) In the case of a claim relating to the practice of taungya-cultivation, the Forest-settlement-officer shall pass an order specifying the particulars of such claim, and permitting, or refusing to permit, such practice wholly or in part.

(*2*) If such practice is permitted wholly or in part, the Forest-settlement-officer may—

(*a*) alter the limits of the proposed reserved forest so as to exclude land of sufficient extent, of a suitable kind and in a locality reasonably convenient for the purposes of the claimants; or

(*b*) cause certain portions of the reserved forest to be separately demarcated, and give permission to the claimants to practise taungya-cultivation under such rules and conditions as he may prescribe.

(*3*) No absolute right to practise taungya-cultivation shall be deemed to be conferred by an order under this section permitting such practice, and, except with the sanction of the Local Government, such cultivation shall only be practised by the person to whom such permission is granted.

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[a] See ss. 5—10 of Act V of 1880, *supra*, pp. 43 and 44.
[b] See ss. 48, 49, 50 and 53 of Reg VIII of 1886, *supra*, p 393.

Power to acquire land over which right is claimed.

10. (*1*) In the case of a claim to a right in or over any land other than the following rights, namely:—

(*a*) a right of way;

(*b*) a right to a watercourse or to use of water;

(*c*) a right of pasture or to forest-produce;

the Forest-settlement-officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

(*2*) If such claim is admitted wholly or in part, the Forest-settlement-officer may—

(*x*) come to an agreement with the claimant for the surrender of the right; or

(*y*) exclude the land from the limits of the proposed forest; or

(*z*) proceed to acquire such land in the manner provided by the Upper Burma Land Acquisition Regulation, 1886.[a]

IX of 1886.

(*3*) For the purpose of so acquiring such land—

(i) the Forest-settlement-officer shall be deemed to be a Collector proceeding under the Upper Burma Land Acquisition Regulation, 1886;[a]

(ii) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 8 of that Regulation;

(iii) the provisions of the preceding sections of that Regulation shall be deemed to have been complied with; and

(iv) the Collector, with the consent of the claimant, may award compensation in land, or partly in land and partly in money.

Order on claims to rights of way, watercourse or pasture or to forest-produce.

11. (*1*) In the case of a claim to a right of a kind specified in clause (*a*), clause (*b*) or clause (*c*) of section 10, sub-section (*1*), the Forest-settlement-officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

(*2*) When a claim to any such right is admitted, if the right is for the beneficial enjoyment of any land or building, the Forest-settlement-officer shall record the designation, position and area of such land, or the designation and position of such building.

(*3*) Where the right is a right to forest-produce, the Forest-settlement-officer shall record whether the forest-produce obtained by the exercise of such right may be sold or bartered, and such other particulars as may be necessary in order to define the nature, incidents and extent of the right.

Provision

12. (*1*) When the Forest-settlement-officer has admitted wholly or in part

[a] See *supra*, p. 403.

for rights of pasture or to forest-produce admitted.

and recorded under the last foregoing section a claim to a right of pasture or to forest-produce, he shall as far as possible provide for the exercise of such right—

(*a*) by altering the limits of the proposed reserved forest so as to exclude land of sufficient extent of a suitable kind and in a locality reasonably convenient for the purposes of the claimant; or

(*b*) by recording an order continuing to the claimant a right of pasture or to forest-produce, as the case may be, subject to such rules as may be prescribed by the Local Government.

(*2*) An order passed under clause (*b*) of sub-section (*1*) shall record, as far as practicable,—

(i) where the right is a right of pasture, the number and description of the cattle which the claimant is from time to time entitled to graze, and the local limits within which, and the seasons during which, such pasture is permitted; and

(ii) where the right is a right to forest-produce, the quantity of such produce which the claimant is authorized to take or receive, and the local limits within which, the season during which and the mode in which, the taking or receiving of such produce is permitted; and

(iii) whether the right is a right of pasture or a right to forest-produce, such other particulars as may be required in order to define the extent of the right which is continued, the mode in which it may be exercised and the extent to which the benefit thereof may be leased, sold or bartered.

Commutation of such rights.

13. Whenever any right of pasture or to forest-produce admitted under section 11 is not provided for in one of the ways prescribed in section 12, the Forest-settlement-officer shall, subject to such rules as the Local Government may prescribe in this behalf, commute such right by paying a sum of money in lieu thereof, or, with the consent of the claimant, by the grant of land, or in such other manner as such officer thinks fit.

Appeal from order passed under foregoing sections.

14. Any person who has made a claim under this Chapter may, within three months from the date of any order passed on such claim by the Forest-settlement-officer under section 9, 10, 11, 12 or 13, present an appeal from such order to such officer of the Revenue Department, of rank not lower than that of a Deputy Commissioner, as the Local Government may, by notification in the official Gazette, appoint by name, or as holding an office, to hear appeals from such orders.

Appeals

15. (*1*) Every appeal under the last foregoing section shall be made by

petition in writing, and may be delivered to the Forest-settlement-officer, who shall forward it without delay to the officer competent to hear the same. under the last foregoing section.

(2) Every such appeal shall be heard in the manner prescribed for the time being for the hearing of appeals in matters relating to revenue, and, except as hereinafter provided, the order passed on the appeal shall be final.

16. (*1*) When the following events have occurred, namely:— Notification declaring forest reserved.

(*a*) the period fixed under section 5 for preferring claims has elapsed, and all claims, if any, made within such period have been disposed of by the Forest-settlement-officer, and

(*b*) if such claims have been made, the period fixed by section 14 for appealing from the orders passed on such claims has elapsed, and all appeals, if any, presented within such period have been disposed of by the appellate officer, and

(*c*) all lands, if any, to be included in the proposed reserved forest which the Forest-settlement-officer has, under section 10, elected to acquire under the Upper Burma Land Acquisition Regulation, 1886,[1] have become vested in the Government under that Regulation,

IX of 1886.

the Local Government may publish a notification in the official Gazette specifying the limits of the forest which it is intended to reserve and declaring the same to be reserved from a date fixed by such notification.

(*2*) From the date so fixed such forest shall be deemed to be a reserved forest.

17. Rights in respect of which no claim has been preferred under section 5 and of the existence of which no knowledge has been acquired by inquiry under section 7 shall thereupon be extinguished, unless, before the publication of such notification, the person claiming them has satisfied the Forest-settlement-officer that he had sufficient cause for not preferring such claim within the period fixed under section 5. Extinction of rights not claimed.

18. The Deputy Commissioner of the district in which the forest is situate shall, before the date fixed by such notification, cause a translation thereof in the language of the country to be published in the manner prescribed for the proclamation under section 5. Publication of translation of such notification in neighbourhood of forest.

19. The Local Government may, within five years from the publication of any notification under section 16, revise any arrangement made under section 9, 12 or 15 and may rescind or modify any order made under this Chapter, and direct that any one of the proceedings specified in section 12 be Power to revise arrangement made under section 9, 12 or 15.

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[1] See *supra*, p. 403.

taken in lieu of the other of such proceedings, or that a permission granted under section 9 or a right admitted under section 11 be commuted in the manner mentioned in section 13.

Acquisition of rights over reserved forests.

20. No right of any description shall be acquired in or over a reserved forest, except by succession or under grant or contract in writing made by, or with the previous sanction of, the Governor General in Council, or some person in whom such right, or the power to create such right, was vested when the notification under section 16 was published.

Alienation of rights in reserved forests.

21. (*1*) Notwithstanding anything herein contained, no right continued under section 12 shall be alienated by way of grant, sale, lease, mortgage or otherwise without the sanction of the Local Government:

Provided that, when any such right is continued for the beneficial enjoyment of any land or building, it may be sold or otherwise alienated with such land or building without such sanction.

(*2*) The benefit of any right continued under section 12 shall not be leased, sold or bartered except to the extent defined by the order recorded under that section.

Power to stop ways and watercourses in reserved forests.

22. Any Forest-officer may from time to time, with the previous sanction of the Local Government, or of a Forest-officer or other officer authorized by the Local Government in this behalf, stop any public or private way or watercourse in a reserved forest:

Provided that for the way or watercourse so stopped another way or watercourse which, in the opinion of the Local Government, is equally convenient already exists or has been provided or constructed by the Forest-officer stopping the way or watercourse.

Penalties for trespass or damage in reserved forests.

23. Any person who in a reserved forest—

(*a*) trespasses, or pastures cattle, or permits cattle to trespass, or

(*b*) causes any damage by negligence in felling any tree or cutting or dragging any timber, or

(*c*) poisons water or, in contravention of any rules[a] made by the Local Government, hunts, shoots, fishes or sets traps or snares,

shall be punished with fine which may extend to fifty rupees, or, when the damage resulting from his offence amounts to more than twenty-five rupees, to double the amount of such damage.

Acts prohibited in such forests.

24. Any person who—

(*a*) makes any fresh clearing prohibited by section 6, or

(*b*) sets fire to a reserved forest, or, in contravention of any rules[a] made by

[a] For rules under ss. 23 and 24, see Burma Gazette, 13th April, 1889, Pt. I, p. 171.

the Local Government, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest, or

who, in such a forest,—

(*c*) kindles, keeps or carries any fire except at such seasons and in such manner as a Forest-officer specially empowered in this behalf may from time to time notify, or

(*d*) fells, cuts, girdles, marks, lops, taps or injures by fire or otherwise any tree, or

(*e*) quarries stone, burns lime or charcoal, or collects subjects to any manufacturing process or removes any forest-produce, or

(*f*) clears or breaks up any land for cultivation or any other purpose,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Acts excepted from sections 23 and 24.

25. Nothing in section 23 or section 24 shall be deemed to prohibit—

(*a*) the exercise, in accordance with the rules, if any, made by the Local Government under section 12, of any right continued under that section; or

(*b*) any act done with the permission in writing of a Forest-officer specially empowered to grant such permission; or

(*c*) any practice of taungya-cultivation permitted under section 9; or

(*d*) the exercise of any right created by grant or contract in the manner described in section 20.

Penalty for offences committed by persons having rights in reserved forests.

26. Whenever fire is caused wilfully or by gross negligence in a reserved forest by any person having rights in such forest or permission to practise taungya-cultivation therein, or by any person in his employment, or whenever any person having rights in such forest contravenes the provisions of section 21, the Local Government may, notwithstanding that a penalty has been inflicted under section 24 in respect of such fire, direct that in such forest, or any specified portion thereof, the exercise of all or any of the rights of pasture or to forest-produce shall be extinguished, or be suspended for such period as it thinks fit, and may withdraw any permission to practise taungya-cultivation in such forest or portion.

Power to declare forest no longer reserved.

27. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, direct that, from a date to be fixed by such notification, any forest, or any portion thereof, reserved under this Regulation shall cease to be reserved.

(*2*) From the date so fixed such forest or portion shall cease to be reserved, but the rights, if any, which have been extinguished therein shall not revive, in consequence of such cessation.

CHAPTER III.

VILLAGE-FORESTS.

Constitution of village-forests.

28. (*1*) The Local Government may, by notification in the official Gazette, constitute any land at the disposal of the Government a village-forest for the benefit of any village-community, or group of village-communities, and may in like manner vary or cancel any such notification.

(*2*) Every such notification shall specify the limits of such village-forest.

Teak trees in village-forests to be deemed the property of the Government.

29. All teak trees in a village-forest shall be deemed to be the property of the Government, and no person shall fell, cut, girdle, mark, lop, tap or injure by fire or otherwise any such trees without the permission in writing of a Forest-officer specially empowered to grant such permission.

Power to make rules for village-forests.

30. (*1*) The Local Government may make rules for regulating the management of village-forests, prescribing the conditions under which the community or group of communities for the benefit of which any such forest is constituted may be provided with forest-produce or with pasture, and their duties in respect of the protection and improvement of such forest.

(*2*) The Local Government may, by such rules, declare any of the provisions of Chapter II of this Regulation to be applicable to village-forests.

Inquiry into and settlement of rights.

31. All claims to any rights other than the rights of the village-community, or group of village-communities for the benefit of which such village-forest is constituted shall be inquired into, recorded and provided for in the manner prescribed by Chapter II of this Regulation.

CHAPTER IV.

GENERAL PROTECTION OF FORESTS AND FOREST-PRODUCE.

Reserved trees in unsettled tracts.

32. (*1*) All teak trees standing on any land not included in a reserved forest or village-forest shall be deemed to be the property of the Government and shall be reserved trees.

(*2*) The Local Government may, by notification in the official Gazette,—

(*a*) declare that any other trees or any specified class of other trees standing on any land at the disposal of the Goverment shall, from a date to be fixed by such notification, be reserved trees;

(*b*) vary or cancel any such notification;

(*c*) declare that any teak trees standing on land other than land at the disposal of the Government shall, from a date to be fixed by such notification, cease to be the property of the Government and to be reserved trees.

Protection of reserved trees.

33. No person shall fell, cut, girdle, mark, lop, tap or injure by fire or otherwise any reserved tree, except in accordance with rules[a] made by the Local Government in this behalf or as provided by the last section of this Chapter.

Protection of unsettled forests belonging to the Government.

34. (*1*) No person shall make use of any forest-produce of any land at the disposal of the Government and not included in a reserved forest or village-forest, except in accordance with rules[a] made by the Local Government in this behalf or as provided by the last section of this Chapter.

(*2*) Such rules may, with respect to such land,—

(*a*) regulate or prohibit the cutting of taungyas or the issue of grants or leases on behalf of the Government;

(*b*) regulate or prohibit the kindling of fires, and prescribe the precautions to be taken to prevent the spreading of fires;

(*c*) regulate or prohibit the felling, cutting, girdling, marking, lopping, tapping or injuring by fire or otherwise of any trees, the sawing, conversion and removal of timber, and the collection and removal of other forest-produce;

(*d*) regulate or prohibit the quarrying of stone, the boiling of catechu, or the burning of lime or charcoal;

(*e*) regulate or prohibit the cutting of grass and pasturing of cattle, and regulate the payments, if any, to be made for such cutting or pasturing;

(*f*) prohibit the poisoning of water, and regulate or prohibit hunting, shooting and fishing and the setting of traps or snares;

(*g*) regulate the sale or free grant of forest-produce; and

(*h*) prescribe, or authorize any Forest-officer to prescribe, subject to the control of the Local Government, the fees, royalties or other payments for forest-produce, and the manner in which such fees, royalties or other payments are to be levied, whether in transit, or partly in transit, or otherwise.

(*3*) The Local Government may exempt any person, or class of persons, or any local area, from the operation of any such rule, and may cancel such exemption.

[a] For rules under ss. 33 and 34, see Burma Gazette, 13th April, 1889, Pt. I, pp. 171 and 175, also Burma Gazette, 18th May, 1889, Pt. I, p. 225.

(*Chap. IV.—General Protection of Forests and Forest-produce. Secs. 35-36. Chap. V.—Duty on Imported Forest-produce. Secs. 37-39. Chap. VI.—Control of Forest-produce in Transit. Sec. 40.*)

Penalties.

35. (*1*) If any person infringes the provisions of section 33 he shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(*2*) The Local Government may, by a rule under section 34, attach to the breach of any rule under that section any punishment not exceeding that mentioned in sub-section (*1*).

Nothing in this Chapter to prohibit acts done in certain cases.

36. Nothing in this Chapter, or in any rule under this Chapter, shall be deemed to prohibit any act done in the exercise of any right or with the permission in writing of a Forest-officer specially empowered to grant such permission.

CHAPTER V.

Duty on imported Forest-produce.

Power to impose duty on forest-produce.

37. (*1*) The Local Government may, with the previous sanction of the Governor General in Council, levy a duty, in such manner, at such places, and at such rates, as it may prescribe by notification in the official Gazette, on all forest-produce which is brought into the territories to which this Regulation extends from any place beyond those territories.

(*2*) In every case in which such duty is directed to be levied *ad valorem*, the Local Government may, by like notification, determine the manner in which the value is to be ascertained.

Power to exempt forest-produce from duty.

38. The Local Government may exempt any forest-produce from the duty to which it is liable under the last foregoing section and revoke such exemption.

Provisions of Chapter not to limit purchase-money or royalty.

39. Nothing in this Chapter shall be deemed to limit the amount, if any, chargeable as purchase-money or royalty in respect of any forest-produce.

CHAPTER VI.

Control of Forest-produce in Transit.

Power to make rules to regulate transit of forest-produce.

40. (*1*) The control of all rivers and their banks as regards the floating of timber, as well as the control of all forest-produce in transit by land or water, is vested in the Local Government and that Government may make rules[a] to regulate the transit of any forest-produce.

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[a] For rules under s. 40, see Burma Gazette, 13th April, 1889, Part I, pp. 172 and 175.

(2) Such rules may, among other matters,—

(*a*) prescribe the routes by which alone forest-produce may be imported into, exported from or moved within the territories to which this Regulation extends;

(*b*) prohibit the import, export, collection of moving of forest-produce without a pass from an officer authorized to issue the same, or otherwise than in accordance with the conditions of such pass;

(*c*) provide for the issue, production and return of such passes;

(*d*) fix, or authorize any Forest-officer subject to the control of the Local Government to fix, the fees payable for such passes;

(*e*) in the case of timber formed into a raft or fastened to the shore, prohibit the loosening or the setting adrift of such timber by any person not the owner thereof or not acting on behalf of such owner or of the Government;

(*f*) provide for the stoppage, reporting, examination and marking of forest-produce in transit in respect of which there is reason to believe that any money is payable to the Government, or to which it is desirable, for the purposes of this Regulation, to affix a mark;

(*g*) establish revenue-stations to which forest-produce is to be taken by the persons in charge of it for examination, or for the realization of such money, or in order that such mark may be affixed to it, and prescribe, or authorize a Forest-officer subject to such control as aforesaid to prescribe, the conditions under which forest-produce is to be brought to, stored at and removed from such revenue-stations;

(*h*) provide for the management and control of such revenue-stations, and for regulating the appointment and duties of persons employed thereat;

(*i*) authorize the transport of timber across any land, and provide for the award and payment of compensation for any damage done by the transport of such timber;

(*j*) prohibit the closing up or obstruction of the channel or banks of any river used for the transit of forest-produce, and the throwing of grass, brushwood, branches or leaves into any such river, or any other act which tends to cause the obstruction of such channel;

(*k*) provide for the prevention and removal of any obstruction in the channel or on the banks of any such river, and for recovering the cost of such prevention or removal from the person causing such obstruction;

(*l*) prohibit absolutely, or subject to conditions, within specified local limits, the establishment of sawpits, the converting, cutting, burning, concealing, marking or supermarking of timber, the altering or effacing of any marks on the same, and possession or carrying of marking-hammers or other implements used for marking timber; and

(*m*) regulate the use of property-marks for timber and the registration of such marks, authorize the refusal or cancellation of the registration of any property-marks, prescribe the time for which the registration of property-marks is to hold good, limit the number of such marks which may be registered by any one person and provide for the levy of fees for such registration.

Penalties for breach of rules under the last foregoing section.

41. (*1*) The Local Government may, by a rule under the last foregoing section, attach to the breach of any rule under that section any punishment not exceeding imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

(*2*) In cases where the offence is committed after sunset and before sunrise or after preparation for resistance to the execution of any law or any legal process, or where the offender has been previously convicted of a like offence, the convicting Court may inflict double the penalty prescribed for such offence.

All persons bound to aid in case of accident at revenue-station.

42. In case of any accident or emergency involving danger to any property at a revenue-station established under a rule made under section 40, every person employed at such revenue-station, whether by the Government or by any private person, shall render assistance to any Forest-officer or Police-officer demanding his aid in averting such danger and securing such property from damage or loss.

CHAPTER VII.

Collection of Drift, Stranded and other Timber.

Certain kinds of timber to be deemed the property of the Government until title thereto proved.

43. (*1*) Timber falling under any of the following descriptions, namely:—

(*a*) timber found adrift, beached, stranded or sunk,

(*b*) timber bearing marks which have not been registered under rules made under section 40,

(*c*) timber which has been supermarked, or on which marks have been obliterated, altered or defaced by fire or otherwise, and,

(*d*) in such areas as the Local Government directs, all unmarked timber,

shall be deemed to be the property of the Government unless and until any person establishes his right thereto as provided in this Chapter.

(*2*) Such timber may be collected by any Forest-officer or other person entitled to collect the same, and may be brought to such stations as a Forest-officer specially empowered in this behalf may from time to time notify as stations for the reception of drift-timber.*

(*3*) The Local Government may, by notification in the official Gazette,* exempt any class of timber from the provisions of this section and withdraw such exemption.

Notice to claimants of timber of those kinds.

44. (*1*) Public notice shall from time to time, as occasion may require, be given by a Forest-officer specially empowered in this behalf of timber collected under the last foregoing section.

(*2*) Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not less than one month from the date on which such notice is given, a written statement of such claim.

Procedure on claim preferred to such timber.

45. (*1*) When any such statement is presented as aforesaid, the Forest-officer may, after making such inquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant.

(*2*) If such timber is claimed by more than one person, the Forest-officer may either deliver the same to any of such persons whom he deems entitled thereto, or may refer the claimants to the Civil Court and retain the timber pending the receipt of an order from such Court for its disposal.

(*3*) Any person whose claim has been rejected under this section may, within two months from the date of such rejection, institute a suit to recover possession of the timber claimed by him, but no person shall recover any compensation against the Government or against any Forest-officer on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this section.

(*4*) No such timber shall be subject to process of any Civil Court until it has been delivered or a suit brought under this section has been decided.

Disposal of unclaimed timber.

46. Where no statement is presented in the manner and within the period prescribed by notice issued under section 44, or where, such statement having been so presented and the claim rejected, the claimant omits to institute a suit to recover possession of such timber within the further period mentioned in section 45, the ownership of such timber shall vest in the Government free

* For notifications under cl. (*d*), sub-s. (*1*), and under sub-s. (*3*) of s. 43, see Burma Gazette, 13th April, 1889, Pt. I, p. 170.

from all incumbrances or, when such timber has been delivered to another person under section 45, in such other person free from all incumbrances not created by him.

Payments to be made by claimant before timber is delivered to him.

47. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until such sum as may be due for salving, collecting, moving, storing and disposing of the timber has been paid by him to the Forest-officer or other person entitled to receive the sum.

Power to make rules and prescribe penalties.

48. (*1*) The Local Government may make rules[a] to regulate the following matters, namely :—

(*a*) the salving, collection and disposal of all timber mentioned in section 43 ;

(*b*) the use and registration of boats used in salving and collecting timber ;

(*c*) the amount to be paid for salving, collecting, moving, storing and disposing of such timber ; and

(*d*) the use and registration of hammers and other implements to be used for marking such timber.

(*2*) The Local Government may, by a rule under this section, attach to the breach of any rule under this section any punishment not exceeding imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

CHAPTER VIII.

Penalties and Procedure.

Seizure of property liable to confiscation.

49. (*1*) When there is reason to believe that a forest-offence has been committed in respect of any forest-produce, such produce, together with all tools, boats, carts and cattle used in the commission of such offence, may be seized by any Forest-officer or Police-officer.

(*2*) Every officer seizing any property under this section shall place on such property, or the receptacle, if any, in which it is contained, a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made :

Provided that, when the forest-produce with respect to which such offence is believed to have been committed is the property of the Government and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

Procedure on receipt by

50. Upon the receipt of any such report, the Magistrate shall take such

[a] For rules under s. 48, see Burma Gazette, 13th April, 1889, Pt. I, p. 175.

measures as may be necessary for the trial of the accused and the disposal of the property according to law. Magistrate of report of seizure.

51. (*1*) When any person is convicted of a forest-offence, all forest-produce which is not the property of the Government and in respect of which such offence has been committed, and all tools, boats, carts and cattle used in the commission of such offence, shall be liable, by order of the convicting Court, to confiscation. Forest-produce, tools, &c., when liable to confiscation.

(*2*) Such confiscation may be in addition to any other punishment prescribed for such offence.

52. When the trial of any forest-offence is concluded, any forest-produce in respect of which such offence has been committed, shall, if it is the property of the Government or has been confiscated, be taken possession of by a Forest-officer specially empowered in this behalf, and, in any other case, may be disposed of in such manner as the Court may order. Disposal on conclusion of trial for forest-offence of produce in respect of which it was committed.

53. (*1*) When the offender is not known or cannot be found, the Magistrate enquiring into the offence, if he finds that an offence has been committed, may, on application in this behalf, order the property in respect of which the offence has been committed to be confiscated and taken possesion of by a Forest-officer specially empowered in this behalf, or to be made over to such Forest-officer or other person as the Magistrate considers entitled to the same: Procedure when offender is not known or cannot be found.

Provided that no such order shall be made till the expiration of one month from the date of the seizure of such property, or without hearing the person, if any, claiming any right thereto, and the evidence, if any, which he may produce in support of his claim.

(*2*) The Magistrate shall either cause a notice of any application under sub-section (*1*) to be served upon any person whom he has reason to believe to be interested in the property seized, or publish such notice in any way which he thinks fit.

54. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 49 and subject to speedy and natural decay, and may deal with the proceeds as he might have dealt with such property if it had not been sold. Procedure as to perishable property seized under section 49.

55. Any person claiming to be interested in property seized under section 49 may, within one month from the date of any order passed by a Magistrate under section 51, section 52 or section 53, present an appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final. Appeal from orders under sections 51, 52 and 53.

56. When an order for the confiscation of any property has been passed under section 51 or section 53, and the period limited by section 55 for Vesting of confiscated property in

the Government.

presenting an appeal from such order has elapsed, and no such appeal has been presented, or when, on such an appeal being presented, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or portion, as the case may be, shall vest in the Government free from all incumbrances.

Saving of power to release property seized.

57. Nothing hereinbefore contained shall be deemed to prevent any Forest-officer or other officer empowered in this behalf by the Local Government from directing at any time the immediate release of any property seized under section 49 which is not the property of the Government and the withdrawal of any charge made in respect of such property.

Punishment for wrongful seizure.

58. (*1*) Any Forest-officer or Police-officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Regulation shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(*2*) Any fine so imposed, or any portion thereof, shall, if the convicting Court so directs, be given as compensation to the person aggrieved by such seizure.

Penalty for counterfeiting or defacing marks in trees and timber and for altering boundary-marks.

59. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code,[*]— XLV of 1860

(*a*) knowingly counterfeits upon any tree or timber a mark used by Forest-officers to indicate that such tree or timber is the property of the Government or of some person, or that it may lawfully be felled or removed by some person, or

(*b*) unlawfully affixes to any tree or timber a mark used by Forest-officers, or

(*c*) alters, defaces or obliterates any such mark placed on any tree or timber by or under the authority of a Forest-officer, or

(*d*) alters, moves, destroys or defaces any boundary-mark of any forest or waste-land to which any provisions of this Regulation apply,

shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

Power to arrest without warrant.

60. (*1*) Any Forest-officer or Police-officer may, without orders from a Magistrate and without a warrant, arrest any person reasonably suspected of having been concerned in any forest-offence punishable with imprisonment for one month or upwards, if such person refuses to give his name and residence, or gives a name or residence which there is reason to believe to be false, or if there is reason to believe that he will abscond.

[*] See ss. 23 and 44 of Act XLV of 1860.

(*2*) Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested before a Magistrate having jurisdiction in the case or to the officer in charge of the nearest police-station.

Power to prevent commission of offence.

61. Every Forest-officer and Police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

Power to compound offences.

62. (*1*) Any Forest-officer specially empowered in this behalf may accept from any person reasonably suspected of having committed any forest-offence, other than an offence under section 58 or section 59, a sum of money by way of compensation for the damage done thereby, and, where any property has been seized as liable to confiscation, may release the same on payment of the value thereof as estimated by such officer.

(*2*) On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the accused person, if in custody, shall be discharged, the property seized shall be released, and no further proceedings shall be taken against such person or property.

Presumption in favour of forest-produce belonging to the Government.

63. When in any proceedings taken under this Regulation, or in consequence of anything done under this Regulation, a question arises as to whether any forest-produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved.

Compensation for damage caused by commission of offences.

64. (*1*) When any person is convicted of felling, cutting, girdling, marking, lopping or tapping trees, or of injuring them by fire or otherwise, in contravention of this Regulation or of any rule thereunder, the convicting Court may, in addition to any other punishment which it may award, order that person to pay to the Government such compensation, not exceeding ten rupees for each tree with respect to which the offence was committed, as it deems just.

(*2*) If the person convicted of the offence committed it as the agent or servant of another person, the convicting Court may, unless after hearing that other person it is satisfied that the commission of the offence was not a consequence of his instigation, or of any neglect or default on his part, order him, instead of the person who committed the offence, to pay the compensation referred to in sub-section (*1*).

(*3*) An appeal from any order under sub-section (*1*) or sub-section (*2*) shall lie to the Court to which orders made by the convicting Court are ordinarily appealable, and the order passed on such appeal shall be final.

Forfeiture of leases.

65. When the holder of any lease, license or contract whatsoever granted or continued by or on behalf of the Government for any of the purposes of this Regulation commits an offence against this Regulation or any rule there-

under, or when any such offence is committed by any agent or servant of the holder of any such lease, license or contract, and the Local Government is satisfied that the commission of the offence was a consequence of the instigation of such holder or of any wilful neglect or default on his part, the Local Government may, by order in writing, declare the lease, license or contract to be forfeited in whole or in part with effect on and from a date to be specified in the order.

CHAPTER IX.

CATTLE-TRESPASS.

Cattle-trespass Act, 1871, to apply.

66. Cattle trespassing in a reserved forest or in a village-forest shall be deemed to be cattle doing damage to a public plantation within the meaning of section 11 of the Cattle-trespass Act, 1871, and may be seized and impounded as such by any Forest-officer or Police-officer. I of 1871.

Power to alter fines fixed by that Act.

67. The Local Government may, by notification in the official Gazette, direct that, in lieu of the fines fixed by section 12 of the Act last aforesaid, there shall be levied for each head of cattle impounded under section 66 of this Regulation such fines as it thinks fit, but not exceeding the following, namely:—

	Rs.	A.
For each elephant	10	0
For each buffalo	2	0
For each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer	1	0
For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid . .	0	8

CHAPTER X.

FOREST-OFFICERS.

Investiture of Forest-officers with certain powers.

68. (*1*) The Local Government may invest any Forest-officer by name, or as holding an office, with all or any of the following powers, namely:—

(*a*) the powers of a Demarcation-officer under the Burma Boundaries Act, 1880;[a] V of 1880.

(*b*) the powers of a Civil Court to compel the attendance of witnesses and the production of documents;[b]

[a] See ss 5-10 of Act V of 1880, *supra*, pp. 43 and 44.
[b] See ss 48, 49, 50 and 53 of Reg. VIII of 1886, *supra*, p 393.

X of 1882.

(*c*) power to issue search-warrants under the Code of Criminal Procedure, 1882;[a]

(*d*) power to hold inquiries into forest-offences, and in the course of such inquiries to receive and record evidence;

(*e*) power to notify the seasons and manner in which fire may be kindled, kept or carried in a reserved forest;

(*f*) power to grant any permission referred to in sections 25, 29 and 36;

(*g*) power to notify stations for the reception of drift-timber;

(*h*) power to give public notice of timber collected under section 43;

(*i*) power to take possession of property under this Regulation;

(*j*) power to direct the release of property or withdrawal of charges;

(*k*) power to accept compensation for damage done by forest-offences;

and may withdraw any powers so conferred.

(*2*) Any evidence recorded under clause (*d*) of sub-section (*1*) shall be admissible in any subsequent trial before a Magistrate of the alleged offender:

Provided that it has been taken in the presence of the accused person and recorded in the manner provided by section 355, section 356 or section 357 of the Code of Criminal Procedure, 1882.

Forest-officers deemed public servants.

XLV of 1860.

69. All Forest-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Indemnity for acts done in good faith.

70. No suit or criminal prosecution shall lie against any public servant for anything done or omitted by him in good faith under this Regulation.

Forest-officers not to trade.

71. No Forest-officer shall, as principal or agent, trade in forest-produce, or be or become interested in any lease or mortgage of any forest, or in any contract for working any forest, whether in British or foreign territory.

CHAPTER XI.

Supplemental Provisions.

Additional powers to make rules.

72. The Local Government may make rules[b] consistent with this Regulation—

(*a*) to declare by what Forest-officer or class of Forest-officers the powers or duties conferred or imposed by or under this Regulation on a Forest-officer are to be exercised or performed;

(*b*) to regulate the procedure of Forest-settlement-officers;

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[a] See ss. 96-99 of Act X of 1882.

[b] For rules under s. 72, see Burma Gazette, 13th April, 1889, Pt. I, p. 175.

(*c*) to regulate the rewards to be paid to officers and informers from the proceeds of fines and confiscations under this Regulation or from the public treasury; and

(*d*) generally to carry out the provisions of this Regulation.

Rules when to have force of law.

73. All rules made by the Local Government under this Regulation shall be published in the official Gazette, and shall thereupon have the force of law.

Persons bound to assist Forest-officer and Police-officer.

74. Every person who exercises any right in a reserved forest or village-forest, or who is permitted to remove any forest-produce from, or to pasture cattle or practise taungya-cultivation in, such forest, and

every person who is employed by such person in such forest, and every person in any village contiguous to such forest who is employed by the Government, or who receives emoluments from the Government for services to be performed to the community,

shall be bound to furnish, without unnecessary delay, to the nearest Forest-officer or Police-officer, any information which he may possess respecting the occurrence of a fire in or near such forest, or the commission of, or intention to commit, any forest-offence, and shall assist any Forest-officer or Police-officer demanding his aid—

(*a*) in extinguishing any fire occurring in such forest;

(*b*) in preventing any fire which may occur in the vicinity of such forest from spreading to such forest;

(*c*) in preventing the commission in such forest of any forest-offence; and,

(*d*) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

Recovery of money due to the Government.

75. All money, other than fines, payable to the Government under this Regulation, or under any rule made thereunder or on account of the price of any forest-produce, or of expenses incurred in the execution of this Regulation in respect of any forest-produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of revenue.

Lien on forest-produce for such money.

76. (*1*) When any such money is payable for, or in respect of, any forest-produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a Forest-officer specially empowered in this behalf and may be retained by him until such amount has been paid.

(*2*) If such amount is not paid when due, such Forest-officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.

(*3*) The surplus, if any, if not claimed within two months from the date

of the sale by the person entitled thereto, shall be forfeited to the Government.

Government and its officers not liable for loss or damage in respect of certain forest-produce.

77. The Government shall not be responsible for any loss or damage which may occur in respect of any forest-produce while at a revenue-station established under a rule made under section 40 or while detained elsewhere for the purposes of this Regulation, or in respect of any timber collected under section 43, and no Forest-officer shall be responsible for any such loss or damage unless he causes the same negligently, maliciously or fraudulently.

Land required under this Regulation to be deemed to be needed for a public purpose.

78. Whenever it appears to the Local Government that any land is required for any of the purposes of this Regulation, such land shall be deemed to be needed for a public purpose within the meaning of section 3 of the Upper Burma Land Acquisition Regulation, 1886.[a]

IX of 1886.

REGULATION No. IX OF 1887.

The Upper Burma Frontier Crossing and Disturbed Districts Regulation.[b]

Received the Governor General's assent on the 18th August, 1887; published in the Gazette of India of the 20th idem; and in the Burma Gazette of the 3rd September, 1887.

WHEREAS it is expedient that the Local Government and certain of its officers should have authority to prevent persons from passing out of certain parts of Upper Burma into foreign territory or Shan States and from entering or residing or travelling in disturbed parts of Upper Burma; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Regulation may be called the Upper Burma Frontier Crossing and Disturbed Districts Regulation, 1887.

(*2*) It extends to the whole of Upper Burma except the Shan States; and

(*3*) It shall come into force on such day as the Local Government may appoint in this behalf.[b]

Warning against entering foreign territory, Shan States or disturbed districts.

2. (*1*) A person warned in manner hereinafter provided shall not—

(*a*) pass across the frontier of any of the districts mentioned in sub-section (*2*) into any foreign territory or Shan State; or,

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[a] See *supra*, p. 405.

[b] This Regulation came into force on the 3rd October, 1887—see Burma Gazette, Mandalay Supplement, 1st *idem*, p. 515.

(*b*) while a notification under this clause is in force, pass from any part of the territories to which this Regulation extends into any other part of those territories to which the Local Government has, by notification in the official Gazette, declared this clause to apply; or,

(*c*) while a notification under this clause is in force, reside or travel in any part of those territories to which the Local Government has, by such a notification as aforesaid, applied this clause.

(*2*) The districts referred to in sub-section (*1*), clause (*a*), are the Chindwin, Bhamo, Katha, Ruby Mines, Mandalay, Kyaukse, Meiktila, Yamethin and Pyinmana districts.

Service or publication of warning.

3. Every warning for the purpose of this Regulation shall be in writing, and shall,—

(*a*) if addressed to an individual, be signed by the Commissioner of the division or Magistrate of the district within which the individual dwells or may be found, and be served upon him in such manner as the Local Government may by general or special order prescribe;

(*b*) if addressed to a class of persons or to the public generally, be published with the previous sanction of the Governor General in Council in the local official Gazette, and otherwise in such manner as the Local Government may by general or special order direct.

Consequence of disobedience to warning.

4. (*1*) If any person to whom a warning served or published under the last foregoing section is addressed disobeys or attempts to disobey the warning,—

(*a*) he shall be punished with fine which may extend to five hundred rupees; and

(*b*) the Local Government may order him to remove to such place within the territories to which this Regulation extends as it may direct in this behalf.

(*2*) If any person contravenes any order under sub-section (*1*), clause (*b*), the Commissioner of the division or Magistrate of the district within which the person is dwelling or may be found may cause him to be arrested and detained in custody until he accepts his release upon such conditions as the Local Government thinks fit to impose.

Power to Commissioner or Magistrate to require security for good behaviour in certain cases.

5. (*1*) If the Commissioner of the division or Magistrate of the district within which any person, whether a European British subject or not, is dwelling or may be found, reasonably suspects that the person intends to disobey a warning served on him or published in accordance with section 3, the Commissioner or Magistrate may require such security for his good behaviour for a period not exceeding six months as the Commissioner or Magistrate may deem sufficient.

X of 1882. (*2*) The provisions of the Code of Criminal Procedure, 1882, sections 112 to 126 (both inclusive) and section 514, shall, so far as they can be made applicable, apply to all cases under this section.

REGULATION No. X of 1887.

A Regulation to define, extend and limit the operation of certain enactments in Upper Burma, and for other purposes.

Received the Governor General's assent on the 20th August, 1887; published in the Gazette of India of the 27th idem; and in the Burma Gazette of the 10th September, 1887.

WHEREAS it is expedient to remove doubts as to the effect of the law in force in Upper Burma with respect to stamps on instruments to which at the time of their execution the law of British India did not apply;

And whereas it is expedient to apply certain provisions of the Upper
VIII of 1886. Burma Civil Justice Regulation, 1886, respecting pleaders to certain proceedings to which that Regulation is at present inapplicable;

And whereas it is expedient to determine the period of limitation for appeals and applications under that Regulation;

And whereas the period for the institution of suits was not limited in Upper Burma before that territory became part of British India, and it is expedient that persons having just claims which, if Upper Burma had not become part of British India, they might have enforced in the Courts of Upper Burma should not be debarred from enforcing those claims by reason of a period of limitation being prescribed for suits by the law now in force in Upper Burma;

And whereas it is expedient to limit the amount of interest to be decreed in suits instituted while the law of limitation for the institution of suits is inoperative;

It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Regulation may be called the Upper Burma Stamps and Limitation Regulation, 1887.

(*2*) It extends to the whole of Upper Burma except the Shan States: and

(*3*) It shall come into force at once.

Saving in favour of unstamped instruments.

I of 1879. **2.** The provisions of the Indian Stamp Act, 1879, with respect to the consequences of instruments not being duly stamped shall not apply to any instrument which may have been executed before section 6 of the Upper Burma

Laws Act, 1886,[a] came into force and to which the law of British India did not apply at the time of its execution. XX of 1886.

Pleaders.

3. (*1*) Notwithstanding anything in section 17 of the Upper Burma Civil Justice Regulation, 1886,[b] the provisions of sections 20, 21 and 22 of that Regulation shall apply to all proceedings which are regulated by the Code of Civil Procedure in the Court of the Judicial Commissioner or in the Civil Court of Mandalay or in any other Court, or before any officer, in the territories to which this Regulation extends. VIII of 1886. XIV of 1882.

(*2*) For the purposes of sub-section (*1*) the references to the Upper Burma Civil Justice Regulation, 1886, in sections 20 and 22 of that Regulation shall be read as applying to the Code of Civil Procedure, and the provisions of that Code with respect to the matters to which sections 20, 21 and 22 of the Regulation relate shall be read with, and be controlled by, those sections. VIII of 1886. XIV of 1882.

Limitation for appeals and applications under the Civil Justice Regulation.

4. Where the Code of Civil Procedure or any part thereof is referred to in the Second or Third Division of the Second Schedule to the Indian Limitation Act, 1877, the reference shall, in cases to which the Upper Burma Civil Justice Regulation, 1886, is applicable, be construed as applying to that Regulation or the corresponding part thereof, if any. XV of 1877. VIII of 1886.

Temporary suspension of part of the Indian Limitation Act.

5. Notwithstanding anything in section 6 of the Upper Burma Laws Act, 1886, the operation of so much of the Indian Limitation Act, 1877, as limits the period for the institution of suits shall be suspended on and from the commencement[c] of this Regulation up to the thirtieth day of June, 1890. XX of 1886. XV of 1877.

Power to re-institute suits dismissed as barred by limitation.

6. (*1*) At any time on or before that day any suit which has, since the date on which section 6 of the Upper Burma Laws Act, 1886, came into force, been dismissed wholly or in part on the ground of the whole or a part of the relief claimed therein being barred by limitation may, in so far as the suit was so dismissed, be re-instituted. XX of 1886.

(*2*) In the case of any suit so dismissed the plaint, if any, shall, on the application of the plaintiff or his legal representative, be returned to him, with a certified copy of the decree in the suit, free of charge, and, if presented again by him, with the copy of the decree, to the Court which so dismissed the suit or, where that Court has ceased to exist, to a Court having jurisdiction to try so much of the suit as was so dismissed, shall be re-admitted without payment of any further court-fee thereon.

Amount of interest to be decreed in

7. (*1*) In any suit instituted on or before the thirtieth day of June, 1890, or re-instituted under the last foregoing section on or before that day, the

[a] S. 6 of the Upper Burma Laws Act, 1886, came into force on the 29th November, 1886—see *supra*, p. 363.

[b] See *supra*, p. 387.

[c] *i.e.*, the 10th September, 1887.

amount of interest which may be decreed for the period prior to the date of the suit shall not exceed the amount of the principal sum decreed in the suit. Suits instituted during the temporary suspension of the Indian Limitation Act.

(*2*) For the purposes of sub-section (*1*)—

XIV of 1882. (*a*) section 43 of the Code of Civil Procedure shall be deemed to be in force throughout the territories to which this Regulation extends; and

(*b*) the date of a suit re-instituted under section 6 of this Regulation shall be deemed to be the date of its re-institution.

THE UPPER BURMA RUBY REGULATION, 1887.

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3. Prohibition of digging for or dealing in stones except under rules.
4. Power to make rules.
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9. Powers of search, seizure and arrest.
10. Issue of warrants by Magistrates.
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REGULATION No. XII OF 1887.

A Regulation to declare the Law relating to Rubies and other Precious Stones in Upper Burma.

Received the Governor General's assent on the 27th May, 1887; published in the Gazette of India of the 16th September, 1887; and in the Burma Gazette of the 1st October, 1887.

WHEREAS it is expedient to declare the law relating to rubies and other precious stones in Upper Burma; It is hereby enacted as follows:—

1. (*1*) This Regulation may be called the Upper Burma Ruby Regulation, 1887. Title, extent, commencement and construction.

(*2*) It extends to the whole of Upper Burma except the Shan States; and

(*3*) It shall come into force on such date as the Local Government may, by notification in the official Gazette, appoint in this behalf.[a]

(*4*) But nothing therein shall be construed to take away or derogate from any right established to the satisfaction of the Local Government.

Definitions.

2. In this Regulation, unless there is something repugnant in the subject or context,—

(*1*) "precious stone" or "stone" means ruby, spinel or sapphire, and includes any other stone which the Local Government may, by notification in the official Gazette, declare to be a precious stone for the purposes of this Regulation:

(*2*) "stone-tract" means a tract which the Local Government has, by notification in the official Gazette, declared to be a local area in which precious stones are found:

(*3*) "native" used with reference to a stone-tract, means a person who was born, and during the five years immediately preceding the commencement of this Regulation has habitually resided, in the stone-tract:

(*4*) "transport" means to remove from one place to another within the territory to which this Regulation extends: and

(*5*) "vessel" includes anything made for the conveyance by water of human beings or of property.

Prohibition of digging for or dealing in stones except under rules.

3. Except as permitted by rules under this Regulation, no one shall—

(*a*) if he is not a native of a stone-tract, reside therein;

(*b*) dig for or raise any precious stone in a stone-tract;

(*c*) cut or dress any precious stone;

(*d*) possess any precious stone in a stone-tract or, for the purposes of trade, in any place beyond the limits of a stone-tract;

(*e*) buy or sell, or be otherwise a party to the transfer of, any precious stone; or

(*f*) transport any precious stone.

Power to make rules.

4.[b] (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, make rules consistent with this Regulation to permit on such conditions and in considera-

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[a] This Regulation came into force on the 10th October, 1887—see Burma Gazette, Mandalay Supplement, 1st *idem*, p. 515.

[b] For rules under s. 4, see Burma Gazette, 15th October, 1887, Pt. I, p. 398.

tion of such payments, if any, as it thinks fit, and to regulate, all or any of the following matters, namely :—

(*a*) the residence in a stone-tract of persons who are not natives thereof;

(*b*) the digging for or raising of precious stones in a stone-tract;

(*c*) the cutting or dressing of precious stones;

(*d*) the possession of precious stones in a stone-tract or, for the purposes of trade, in any place beyond the limits of a stone-tract;

(*e*) the purchase or sale of, or other mode of transferring, precious stones; and

(*f*) the transport of precious stones.

(*2*) The Local Government, with the previous sanction of the Governor General in Council, may amend, add to or cancel any rule made under this section.

Supplementary provisions respecting rules.

5. (*1*) Rules under the last foregoing section may provide for the following among other matters, namely :—

(*a*) the grant of licenses to do anything permitted by the rules to be done;

(*b*) the authority by which the licenses may be granted;

(*c*) the time and manner at and in which applications for the licenses are to be made;

(*d*) the authority by which the conditions of the licenses, and the payments, if any, to be made therefor, are to be prescribed;

(*e*) the powers which may be exercised for the purpose of enforcing any provision of this Regulation or the rules or securing the fulfilment of any condition of a license, and the authority by which those powers may be exercised;

(*f*) the period for which any license is to remain in force;

(*g*) the authority by which fees may be prescribed for services rendered to licensees and other persons under the rules and the limitation of the amount of those fees;

(*h*) the authority by which forms may be prescribed for any of the purposes of the rules;

(*i*) the exemption, absolutely or subject to conditions, of any precious stones from the operation of this Regulation or the rules; and

(*j*) any other matter for which it is, in the opinion of the Local Government, necessary to make rules in the interests of the public or of the public revenue.

(*2*) A license to dig for or raise precious stones in a stone-tract may im-

pose on the holder thereof the condition that he shall, at the option of the authority granting the license, or of some other authority appointed by the Local Government in this behalf or of some person upon whom the right of exercising the option has been conferred by the Local Government by lease or other appropriate instrument under this Regulation, either—

(*a*) sell at his own valuation to that authority or person all or any stones which he or any person permitted by the license to work under him finds or raises, or

(*b*) pay on that valuation to that authority or person such duty in respect of the stones as the Local Government directs.

(*3*)[a] The Local Government may, without the previous sanction of the Governor General in Council, make rules subsidiary to, and not inconsistent with, rules made under the last foregoing section with such previous sanction, and may by rules under this sub-section prescribe, among other matters, the time and place, and the mode, at and in which the duty referred to in the last foregoing sub-section is to be paid to the authority or person to whom it is payable.

Offences.

6. In either of the following cases, namely:—

(*a*) if a person, in contravention of this Regulation or of any rule thereunder, resides within a stone-tract, or digs for or raises any precious stone, or cuts or dresses any precious stone, or possesses any precious stone in a stone-tract or, for the purposes of trade, in any place beyond the limits of a stone-tract, or buys or sells, or is otherwise a party to the transfer of, any precious stone, or transports any precious stone, or

(*b*) if a person fails or refuses to comply with any provision of any rule under this Regulation, or commits a breach of any condition of his license,

the person shall, on conviction before a Magistrate of the first class, be punished for each such offence with imprisonment for a term which may extend to one month for the first offence and to six months for any subsequent offence, or with fine, or with both.

Presumption in prosecutions

7. Subject to any rule under this Regulation, it shall be presumed in a prosecution under section 6, until the contrary is proved, that any stone for which the accused person is unable to account satisfactorily is a stone in respect of which he has committed an offence under that section.

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[a] For subsidiary rules under s. 5 (*3*), see Burma Gazette, 13th October, 1888, Pt. I, p. 465.

Confiscation.

8. (*1*) Any stone in respect of which an offence under section 6 has been committed shall be liable to confiscation.

(*2*) When the offender is convicted, or when the person charged with an offence in respect of any stone is acquitted but the Magistrate decides that the stone is liable to confiscation, the confiscation may be ordered by the Magistrate.

(*3*) When an offence under section 6 has been committed but the offender is not known or cannot be found, the Deputy Commissioner, or other officer authorized by the Local Government in this behalf either by name or by office shall inquire into and determine the case, and may order the confiscation of the stone in respect of which the offence was committed:

Provided that the order shall not be made until one month has expired after the date of the seizing of the stone, nor until an opportunity has been given to the persons, if any, claiming any right to the stone of being heard and of producing evidence in support of their claims.

(*4*) When a stone not in the possession of any person cannot be satisfactorily accounted for, the Deputy Commissioner or other officer may proceed with respect thereto under sub-section (*3*) as if it were a stone to which that sub-section applied.

(*5*) The Magistrate, Deputy Commissioner or other officer may, instead of ordering the confiscation of a stone liable to be confiscated, give the owner of the stone an option to pay, in lieu of confiscation, such sum as the officer thinks fit.

Powers of search, seizure and arrest.

9. (*1*) Any officer authorized by the Local Government in this behalf either by name or by office who has reason to believe, from personal knowledge or from information given by any person and taken down in writing, that any stone liable to confiscation under section 8 is to be found in any building, vessel or enclosed place, may, after sunrise and before sunset,—

(*a*) enter the building, vessel or place;

(*b*) in case of resistance, break open any door and remove any other obstacle to his entry;

(*c*) search for and seize the stone; and

(*d*) detain and search, and if he thinks proper arrest, any person whom he has reason to believe to be guilty of any offence relating to the stone.

(*2*) Any officer authorized by the Deputy Commissioner in this behalf may—

(*a*) search for and seize, in any open place or in transit, any stone which he has reason to believe to be liable to confiscation under section 8;

(*b*) detain and search any person whom he has reason to believe to be guilty of any offence under section 6, and, if that person has any stone in his possession, arrest him and any person in his company.

(*3*) The provisions of the Code of Criminal Procedure, 1882, relating to searches under that Code[a] shall, so far as they can in the circumstances for the time being be made applicable, apply to searches under sub-section (*1*) and sub-section (*2*). X of 1882.

(*4*) In either of the following cases, namely:—

(*a*) if an officer authorized to act under sub-section (*1*) enters, without reasonable ground of suspicion, any building, vessel or place, or

(*b*) if an officer authorized to act under sub-section (*1*) or sub-section (*2*) vexatiously and unnecessarily makes any search or detains or arrests any person,

the officer shall for every such offence be punished with fine which may extend to five hundred rupees.

(*5*) Where an officer is sentenced to a fine for an offence under the last foregoing sub-section, the Court imposing the fine or confirming the sentence may presume, for the purposes of section 545 of the Code of Criminal Procedure, 1882, that injury has been caused by the offence and that substantial compensation is recoverable by civil suit in respect of the injury.

Issue of warrants by Magistrates.

10. (*1*) A Magistrate may issue his warrant for the arrest of any person whom he has reason to believe to have committed an offence under section 6, or for the search, by day or by night, of any building, vessel or place in which he has reason to believe any stone liable to confiscation under section 8 to be kept or concealed.

(*2*) Warrants issued under this section shall, so far as the circumstances for the time being admit, be executed in accordance with the provisions of the Code of Criminal Procedure, 1882.[b]

Disposal of persons arrested and stones seized.

11. (*1*) A person arrested or stone seized under section 9 shall be forwarded without delay to the officer in charge of the nearest police-station.

(*2*) A person arrested or stone seized under section 10 shall be forwarded without delay to the Magistrate by whom the warrant under that section was issued.

(*3*) The police-officer or Magistrate, as the case may be, to whom a person

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[a] See Chap VII, B and D, of Act X of 1882.
[b] See Chap. VI, B, of Act X of 1882.

or stone is forwarded under sub-section (*1*) or sub-section (*2*), shall, with all convenient despatch, take such measures as may be necessary for the disposal according to law of the person or stone.

Report of arrests and seizures

12 When an officer makes an arrest or seizure under section 9 or section 10, he shall, within forty-eight hours next after the arrest or seizure, make a full report of all the particulars of the arrest or seizure to his immediate official superior.

Obligation to give information of offences.

13. A police-officer, railway-servant, carrier of goods for hire or person in the employ of such a carrier who is aware of the commission of or of the intention to commit an offence under section 6 shall be legally bound to give immediate information, orally or in writing, of the commission of or intention to commit the offence to a Magistrate, or to a police-officer above the rank of constable

Power for Government to grant lease

14 The Local Government may, with the previous sanction of the Governor General in Council, grant by lease or other appropriate instrument, with respect to all or any stone-tracts or to any stone-tract, the right to exercise the option referred to in section 5, sub-section (*2*).

Recovery of arrears of fees, duties and rents

15 (*1*) Any fee, duty or other money due to the Government under any rule or license made or given under this Regulation, and any money due to the Government from a grantee under the last foregoing section, may be recovered from the person from whom the money is due, or from his surety, if any, as if it were an arrear of revenue.

(*2*) Nothing in sub-section (*1*) shall be construed to affect the right of the Government to proceed by suit, in addition to or in lieu of any process authorized by that sub-section, for the recovery of any such money as is mentioned in the sub-section

Acquisition of land for lessee.

16. If, in the opinion of the Local Government, the acquisition of any land on behalf of a grantee under section 14 is desirable for the purposes of this Regulation, the Local Government may, at the request of the grantee, proceed to acquire the land under the provisions of the Upper Burma Land Acquisition Regulation, IX of 1886,[a] and, on payment by the grantee of the compensation awarded under that Regulation, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in him, subject to such conditions, if any, as the Local Government may in each case prescribe.

[a] See *supra*, p 403.

REGULATION No. XIV of 1887.

A Regulation to provide for the Establishment of a Village-system in Upper Burma.

Received the Governor General's assent on the 28th October, 1887; published in the Gazette of India of the 29th idem; and in the Burma Gazette of the 5th November, 1887.

WHEREAS it is expedient to provide for the establishment of a village-system in Upper Burma; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Regulation may be called the Upper Burma Village Regulation, 1887.

(*2*) It extends to the whole of Upper Burma except the Shan States; and

(*3*) It shall come into force on such day as the Local Government may, by notification in the official Gazette, appoint in this behalf.[a]

Definition.

2. (*1*) For the purposes of this Regulation "village" includes—

(*a*) village-lands, and

(*b*) rivers passing through or by, and lakes adjacent to, those lands.

(*2*) The Deputy Commissioner may determine the limits of a village for the purposes of this Regulation.

Appointment of headmen.

3. (*1*) The Deputy Commissioner shall appoint a headman in every village or group of villages.

(*2*) In appointing a headman the Deputy Commissioner shall have regard, so far as circumstances admit, to any established custom which may exist respecting the right of nomination or succession or otherwise and to claims based thereon.

(*3*) A headman holding office in any village or group of villages at the commencement of this Regulation under the name of Myothugyi, Shwehmu, Thugyi, Tamon or other name shall be deemed to have been appointed under this section.

(*4*) When in any village or group of villages there are two or more headmen, one of whom by custom exercises authority over the other or others, the Deputy Commissioner shall decide which of them shall be the headman for the purposes of this Regulation, and with the previous sanction of the Com-

[a] This Regulation came into force on the 5th November, 1887—see Burma Gazette of same date, Pt. I, p. 431.

missioner may make rules to define and regulate their relations to each other.

V of 1882. **4.** For section 45 of the Code of Criminal Procedure, 1882, the following shall be substituted, namely :— Substitution of new section for section 45 of the Code of Criminal Procedure.

XIV of 1887. "45. A headman appointed under the Upper Burma Village Regulation, 1887, shall forthwith communicate to the nearest Magistrate, or to the officer in charge of the nearest police-station or military post, whichever is the nearer, any information which he may obtain respecting— Village-headman bound to report certain matters.

(*a*) the permanent or temporary residence of any notorious receiver or vendor of stolen property in his village ;

(*b*) the resort to any place within, or the passage through, his village of any person whom he knows, or reasonably suspects, to be a dacoit, robber, escaped convict or proclaimed offender ;

(*c*) the commission of, or attempt or intention to commit, within his village any of the following offences, namely :—

(i) murder,

(ii) culpable homicide not amounting to murder,

(iii) dacoity,

(iv) robbery,

XI of 1878. (v) offence against the Indian Arms Act, 1878, and

(vi) any other offence respecting which the Deputy Commissioner by general or special order made with the previous sanction of the Commissioner directs him to communicate information ;

(*d*) the occurrence in his village of any sudden or unnatural death or of any death under suspicious circumstances.

"EXPLANATION.—In this section 'village' has the meaning assigned to that word in the Upper Burma Village Regulation, 1887."

5. The headman of a village shall be bound— Duties of headman.

(*a*) to investigate every offence respecting which he is required by section X of 1882. 45 of the Code of Criminal Procedure, 1882, to communicate information ;

(*b*) to search for and arrest any person whom he has reason to believe to have been concerned in the commission or attempted commission of any such offence, and to recover, if possible, any property taken by any such person ;

(*c*) to arrest any person found lurking within the limits of the village who cannot give a satisfactory account of himself;

(*d*) to forward as soon as may be to the nearest police-station or military post any person arrested by him or made over to his custody, together with any weapon or other article likely to be useful as evidence;

(*e*) to resist any unlawful attack made upon the village;

(*f*) to take such measures and execute such works for the protection of the village and for keeping open the communications between it and adjacent posts as the Deputy Commissioner may direct;

(*g*) on the written order of the Deputy Commissioner or other Magistrate not below the rank of Myook, to collect and furnish on payment supplies of food or carriage for troops or police posted in or near or marching through the village;

(*h*) on the requisition of any Magistrate not below the rank of Myook, to furnish labourers for the making or repair of roads, embankments or other public works;

(*i*) to collect or aid in collecting revenue and other money due to the Government from residents of the village or persons holding land therein;

(*j*) to allot unoccupied land within the village for cultivation or house-building up to such limit and on such conditions as the Deputy Commissioner may direct;

(*k*) if so ordered, and in accordance with such rules as may be made in this behalf by the Commissioner with the sanction of the Local Government, to register all births and deaths which take place within the village, and any other vital statistics which may be prescribed by such rules;

(*l*) to take such measures for the prevention of public nuisances and for the general sanitation of the village as may be prescribed in any rules made in this behalf by the Commissioner, with the sanction of the Local Government;

(*m*) to supply to the best of his ability any local information which any Magistrate or officer of police may require; and

(*n*) generally, to assist all officers of the Government in the execution of their public duties.

Disposal of petty crimi-

6. (*1*) If any of the offences mentioned in the next following sub-section is committed in a village, the headman of the village may, on complaint made

to him within eight days from the date of the commission of the offence, take cognizance of it and try any person accused thereof. nal cases by headman.

(*2*) The offences referred to in sub-section (*1*) are the following, namely:—

(*a*) assault;

(*b*) theft when the value of the property stolen does not exceed five rupees;

(*c*) mischief when the mischief causes damage to an amount not exceeding five rupees;

(*d*) criminal trespass; and

(*e*) any other offence which the Local Government may, by notification in the official Gazette, declare to be triable by headmen under sub-section (*1*).

(*3*) If the accused is convicted, he may be sentenced to fine not exceeding five rupees, or, if the offence was theft or mischief, twice the value of the property stolen or twice the amount of the damage caused, as the case may be, or to imprisonment in such place as the Deputy Commissioner may appoint in this behalf for a term not exceeding twenty-four hours, or to both.

(*4*) A headman specially empowered by the Local Government in this behalf may, on complaint, try any person accused of theft or mischief when the value of the property stolen or the amount of the damage caused does not exceed fifty rupees, and may, in any case triable by him, sentence the accused, on conviction, to fine not exceeding fifty rupees, or to imprisonment in any place appointed as aforesaid for a term not exceeding fifteen days, or to both.

(*5*) Proceedings under this section shall be held in the presence of the complainant and accused.

(*6*) The offence out of which the proceedings have arisen may be compounded at any time before the headman pronounces his decision.

(*7*) The proceedings need not be reduced to writing, but such record shall be kept of the cases decided as the Deputy Commissioner directs.

(*8*) Any fine imposed for an offence referred to in this section may be awarded as compensation to any person injured by the offence.

(*9*) A fee of one rupee may be levied on a complaint under sub-section (*1*), and of two rupees on a complaint under sub-section (*4*).

(*10*) No other fee shall be leviable in any case under this section.

(*11*) If the accused is convicted, the amount of any fee paid in respect of the complaint shall be recovered from him and repaid to the complainant.

7. If a headman neglects to perform any of the duties imposed upon him by this Regulation, or abuses any of the powers conferred upon him thereby, he shall be liable, by order of the Deputy Commissioner, to pay a fine not ex- Penalty for neglect of duty or abuse of authority by headman.

ceeding fifty rupees, or to be suspended from office for a period not exceeding six months, or to be dismissed from office.

Obligation on villagers to aid headman.

8. (*1*) Every person residing in a village shall, on the requisition of the headman, be bound to assist him in the execution of his public duties.

(*2*) If any such person refuses or neglects to comply with the requisition of the headman, he shall, in the absence of reasonable excuse, the burden of proving which shall lie upon him, be liable, by order of the headman, to fine not exceeding five rupees, or to imprisonment in such place as the Deputy Commissioner may appoint in this behalf for a term not exceeding twenty-four hours, or to both, or, on conviction by a Magistrate, to fine not exceeding fifty rupees or to imprisonment for a term not exceeding one month, or to both.

Fine on villagers accessory to crime.

9. (*1*) The Deputy Commissioner may, with the sanction of the Commissioner, impose fines on all or any residents of a village if after enquiry he has found—

(*a*) that they have colluded with or harboured or failed to take all reasonable means to prevent the escape of any criminal;

(*b*) that they have suppressed or combined to suppress evidence in any criminal case;

(*c*) that, stolen property having been tracked to their village, they have failed or neglected to restore the property or to take on the track beyond the limits of their village.

(*2*) In either of the following cases, namely:—

(*a*) when a fine is imposed on the ground stated in clause (*a*) or in clause (*b*) of sub-section (*1*), and the offence of which the criminal is accused or to which the criminal case relates is mischief by fire, dacoity, robbery or cattle-theft, or

(*b*) when a fine is imposed on the ground stated in clause (*c*) of sub-section (*1*),

a sum not exceeding the amount of the damage caused or the value of the property stolen may be given out of the fine as compensation to the owner of the damaged or stolen property.

Fines on villagers where homicide is committed or attempted.

10. When within any village a person is dangerously or fatally wounded by unlawful attack, or the body is found of a person believed to have been unlawfully killed, the residents of the village shall be deemed to have committed an offence under the last foregoing section unless they can show that they—

(*a*) had not an opportunity of preventing the offence or arresting the offender, or

(*b*) have used all reasonable means to bring the offender to justice.

Notification of residence of strangers in villages.

11. (*1*) If any person comes into a village of which he is not a resident, he or the person (if any) in whose house he is living shall, within twelve hours of his coming to the village, report to the headman his arrival, his name and occupation, and the name of the place where he last resided.

(*2*) The departure from a village of a person whose arrival has been reported under sub-section (*1*) shall also be reported by the person, if any, in whose house he has been living.

Prohibition of unauthorized settlement of strangers in villages.

12. A person who is not a resident of a village shall not build any house, hut or enclosure or take up his residence in the village without the permission of the headman.

Power to require residents to remove from villages.

13. When the Deputy Commissioner has reason to believe, on the report of a headman or otherwise, that a person residing in any place is in the habit of harbouring, aiding or abetting dacoits, robbers or cattle-thieves, or has taken up his residence in that place for the purpose of such harbouring, aiding or abetting, he may require that person to leave that place and to reside in such other place as the Deputy Commissioner may direct.

Penalty for breach of orders under immediately preceding sections.

14. (*1*) If a person contravenes the provisions of section 11 or section 12, he shall be punished on conviction by a Magistrate with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to fifteen days, or with both.

(*2*) If a person disobeys a requisition under section 13, he shall be punished on conviction by a Magistrate with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

Mode of recovering certain fines.

15. (*1*) A fine imposed under this Regulation may be recovered as if it were an arrear of revenue.[a]

(*2*) A fine imposed under section 9 may, with the previous sanction of the Local Government, be commuted into an annual addition to the capitation-tax payable by the residents of the village or to the land-revenue payable in respect of the village-lands, or, in the case of revenue-free lands, to an annual assessment at such rates and for such term of years as the Local Government may direct.

Finality of orders.

16. (*1*) An appeal shall not lie from any order made under this Regulation.

(*2*) But the Deputy Commissioner may revise any such order made by any

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[a] See Reg. III of 1889, ss. 40 and 46, *infra*, pp. 482 and 484.

officer subordinate to him, and the Commissioner may revise any such order made by the Deputy Commissioner.

(*3*) Save as provided by this section, an order made under this Regulation shall be final and shall not be liable to be contested by suit or otherwise.

Power to make rules.

17. (*1*) The Local Government may, subject to the control of the Governor General in Council, make rules consistent with this Regulation for the disposal of fees levied under section 6, sub-section (*9*), and generally for carrying into effect the purposes of this Regulation.[a]

(*2*) All such rules shall be published in the official Gazette and shall thereupon have the force of law.

Effect of Regulation.

18. This Regulation shall take effect notwithstanding anything in the Code of Criminal Procedure, 1882, or in any other enactment for the time being in force. X of 1882.

Construction of the words "Myothugyi" and "Thugyi" in past enactments and notifications.

19. Where in any enactment or notification passed or published before the commencement of this Regulation the word "Myothugyi" or the word "Thugyi" occurs, it shall be held to include any person, however designated, who in any part of the territories to which this Regulation extends occupies a position similar to that which is held by a Myothugyi or Thugyi, as the case may be, in other parts of those territories.

THE UPPER BURMA LAND AND REVENUE REGULATION, 1889.

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[a] For rules under s. 17, see Burma Gazette, 19th November, 1887, Pt. I, p. 447 and 448.

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SECRETARIAT LIBRARY.

REGULATION No. III OF 1889.

A Regulation to declare and amend the law relating to rights in land and the assessment and collection of revenue in Upper Burma.

Received the Governor General's assent on the 12th June, 1889; published in the Gazette of India of the 15th idem; and in the Burma Gazette of the 29th idem.

WHEREAS it is expedient to declare and amend the law relating to rights in land and the assessment and collection of revenue in Upper Burma; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Regulation may be called the Upper Burma Land and Revenue Regulation, 1889.

(*2*) It extends to the whole of Upper Burma except the Shan States; and

(*3*) It shall come into force on such day as the Local Government, by notification in the Burma Gazette, appoints in this behalf.

Repeal, and pending proceedings.

2. (*1*) The Upper Burma Revenue Regulation, VII of 1887, is hereby repealed;

(*2*) But all rules made under that Regulation and in force thereunder immediately before the commencement of this Regulation shall be deemed, so far as may be, to have been made under this Regulation and to be in force thereunder.

(*3*) All proceedings relating to matters dealt with by this Regulation and pending at the commencement of this Regulation before officers by whom they would be cognizable under this Regulation shall be deemed, so far as may be, to have been commenced under this Regulation.

Definition.

3. In this Regulation "village" means a village as defined for the purposes of the Upper Burma Village Regulation, 1887,[a] and includes a group of villages to which a headman has been appointed under that Regulation.

XIV of 1887.

CHAPTER II.

REVENUE-OFFICERS.

Classes, Local Jurisdiction and Powers.

Classes, local jurisdiction and powers of Revenue-officers.

4. (*1*) There shall be the following classes of Revenue-officers, namely:—

(*a*) the Financial Commissioner,

(*b*) the Commissioner,

[a] See *supra*, p. 458.

(*c*) the Collector,

(*d*) the Assistant Collector of the first class, and

(*e*) the Assistant Collector of the second class.

(*2*) The Deputy Commissioner of a district shall be the Collector thereof.

(*3*) The Local Government may appoint any Assistant Commissioner, Extra Assistant Commissioner, Subdivisional Officer, Township Officer, Myo-ôk or Akunwun to be an Assistant Collector of the first or of the second class, as it thinks fit.

(*4*) Appointments under sub-section (*3*) shall be by notification in the Burma Gazette, and may be of a person specially by name or by virtue of his office or of more persons than one by any description sufficient for their identification.

(*5*) Subject to the provisions of this Regulation, the jurisdiction of Commissioners and of Collectors and Assistant Collectors extends to the divisions and districts respectively in which they are for the time being employed.

Powers of Revenue-officers

5. Except where the class of the Revenue-officer by whom any function is to be discharged is specified in this Regulation, the Local Government, by notification in the Burma Gazette or by the rules which it is empowered by this Regulation to make, or the Financial Commissioner by the rules which he is so empowered to make, may determine the functions to be discharged under this Regulation and the rules thereunder by any class of Revenue-officers.

Administrative Control.

Superintendence and control of Revenue-officers.

6. (*1*) The general superintendence and control over all other Revenue-officers shall be vested in, and all such officers shall be subordinate to, the Financial Commissioner.

(*2*) Subject to the general superintendence and control of the Financial Commissioner, a Commissioner shall control all other Revenue-officers in his division.

(*3*) Subject as aforesaid and to the control of the Commissioner, a Collector shall control all other Revenue-officers in his district.

Power to distribute business and withdraw and transfer cases.

7. (*1*) The Financial Commissioner or a Commissioner or Collector may by written order distribute, in such manner as he thinks fit, among the Revenue-officers under his control, any business cognizable by any of those officers.

(*2*) The Financial Commissioner or a Commissioner or Collector may withdraw any case pending before any Revenue officer under his control, and either dispose of it himself or by written order refer it for disposal to any other Revenue-officer under his control.

(*3*) An order under sub-section (*1*) or sub-section (*2*) shall not empower

any officer to exercise any powers or deal with any business which he would not be competent to exercise or deal with within the local limits of his own jurisdiction.

Appeal, Review and Revision.

Appeals.

8. An appeal shall lie from an original or appellate order of a Revenue-officer as follows, namely:—

(*a*) to the Collector when the order is made by an Assistant Collector of either class;

(*b*) to the Commissioner when the order is made by a Collector;

(*c*) to the Financial Commissioner when the order is made by a Commissioner:

Provided that—

(i) when an original order is confirmed on first appeal, a further appeal shall not lie;

(ii) when any such order is modified or reversed on appeal by the Collector, the order made by the Commissioner on further appeal, if any, to him shall be final.

Limitation for appeals.

9. The period of limitation for an appeal under the last foregoing section shall run from the date of the making of the order appealed from, and shall be as follows, that is to say:—

(*a*) when the appeal lies to the Collector—thirty days;

(*b*) when the appeal lies to the Commissioner—sixty days;

(*c*) when the appeal lies to the Financial Commissioner—ninety days.

Review.

10. (*1*) A Revenue-officer may, either of his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm, any order made by himself or by any of his predecessors in office.

Provided as follows:—

(*a*) when a Commissioner or Collector thinks it necessary to review any order which he has not himself made, and when a Revenue-officer of a class below that of Collector proposes to review any order, whether made by himself or by any of his predecessors in office, he shall first obtain the sanction of the Revenue-officer to whose control he is immediately subject;

(*b*) an application for review of an order shall not be entertained unless it is made within ninety days from the making of the order or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within that period;

(*c*) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order;

(*d*) an order against which an appeal has been preferred shall not be reviewed.

(*2*) For the purposes of this section the Collector shall be deemed to be the successor in office of any Revenue-officer of a lower class who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office.

(*3*) An appeal shall not lie from an order refusing to review or confirming on review a previous order.

Power to call for and revise proceedings of Revenue-officers.

11. (*1*) The Financial Commissioner may at any time call for the record of any case pending before, or disposed of by, any Revenue officer subordinate to him.

(*2*) A Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue-officer under his control.

(*3*) If in any case in which a Commissioner or Collector has called for a record he is of opinion that the proceedings taken or order made should be modified or reversed, he shall report the case with his opinion thereon for the orders of the Financial Commissioner.

(*4*) The Financial Commissioner may in any case called for by himself under sub-section (*1*) or reported to him under sub-section (*3*) make such order as he thinks fit:

Provided that he shall not under this section make an order reversing or modifying any proceeding or order of a subordinate Revenue-officer and affecting any question of right between private persons without giving those persons an opportunity of being heard.

Procedure.

Rules as to procedure.

12. (*1*) The Local Government may make rules consistent with this Regulation for regulating the procedure of Revenue-officers under this Regulation in cases in which a procedure is not prescribed by this Regulation.

(*2*) The rules may provide, among other matters, for the mode of enforcing orders of ejectment from, and delivery of possession of, immoveable property, and rules providing for those matters may confer on a Revenue-officer all or any of the powers in regard to contempts, resistance and the like which any Civil Court in British India, other than a superior Court of Record, may exercise in the execution of a decree whereby it has adjudged ejectment from, or delivery of possession of, such property.

(*3*) Subject to the rules under this section a Revenue-officer may refer any case which he is empowered to dispose of under this Regulation to another Revenue-officer for investigation and report, and may decide the case upon the report.

Persons by whom appearances and applications may be made before and to Revenue-officers.

13. (*1*) Appearances before a Revenue-officer, and applications to and acts to be done before him, under this Regulation and the rules thereunder may be made or done—

(*a*) by the parties themselves, or,

(*b*) with the permission of the Revenue-officer, by their recognized agents or a legal practitioner:

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the Revenue-officer.

(*2*) For the purposes of sub-section (*1*) the recognized agents of parties by whom appearances, applications and acts may be made or done are servants, partners, relations or friends whom the Revenue-officer may admit as fit persons to represent parties, and especially persons holding powers-of-attorney from absent parties, persons carrying on business on behalf of bankers and traders, managers of lands, nearest male relations of women, and persons authorized by virtue of their office to represent the Government.

(*3*) No legal practitioner shall practise before any Revenue-officer unless he holds a certificate from the Financial Commissioner authorizing him to do so.

(*4*) Such a certificate shall be current for such time and chargeable with such stamp-duty, and authorise practice before such Revenue-officers, as the Financial Commissioner prescribes, and may at any time for any cause appearing to the Financial Commissioner to be sufficient be cancelled by him.

(*5*) A Revenue-officer, in determining the costs of any proceeding before him under this Regulation, shall not allow to be included therein the remuneration of any recognized agent or legal practitioner.

Power of Revenue-officer to summon persons.

14. (*1*) A Revenue-officer may summon any person whose attendance he considers necessary for the purpose of any business before him as a Revenue-officer.

(*2*) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows, by his recognized agent or a legal practitioner.

(*3*) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the Revenue-officer may require.

Mode of service of summons.

15. (*1*) A summons issued by a Revenue-officer shall, if practicable, be served (*a*) personally on the person to whom it is addressed, or failing him on (*b*) his recognized agent or (*c*) an adult male member of his family usually residing with him or (*d*) the headman of the village in which he resides.

(*2*) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or, if that person does not reside in the district in which the Revenue-officer is employed and the case to which the summons relates has reference to land in that district, then by posting a copy of the summons on some conspicuous place on or near the land.

(*3*) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the Revenue-officer so directs, be served by delivery of a copy thereof to such of those persons as the Revenue-officer nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested.

(*4*) A summons may, if the Revenue-officer so directs, be served on the person named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a prepaid letter addressed to the person at his usual or last known place of residence and registered under Part III of the Indian Post Office Act, 1866. XIV of 1866.

(*5*) When a summons is so forwarded in a prepaid letter and it is proved that the letter was properly addressed and duly posted and registered, the Revenue-officer may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post.

Mode of service of notice or order.

16. A notice or order issued by a Revenue-officer for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

Mode of making proclamation.

17. When a proclamation is issued by a Revenue-officer it shall be made by such method as the Revenue-officer may decide to be the customary method and, if the proclamation relates to land, it shall be further made by the posting of a copy thereof on some conspicuous place on or near the land.

Supplemental Provisions.

Holidays.

18. (*1*) The Financial Commissioner, with the approval of the Local Government, shall publish in the Burma Gazette before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue-officers.

(*2*) A proceeding had before a Revenue-officer on a day specified in the list as a day to be observed by him as a holiday shall not be invalid by reason only of its having been had on that day.

Discharge of duties of Collector dying or being disabled.

19. When a Collector dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district under any orders which may be generally or specially issued by the Local Government in this behalf, shall be deemed to be a Collector under this Regulation.

Retention of powers by Revenue-officers on transfer.

20. When a Revenue-officer of any class who has been invested under the provisions of this Regulation with any powers to be exercised in any local area is transferred from that local area to another as a Revenue-officer of the same or a higher class, he shall continue to exercise those powers in that other local area unless the Local Government otherwise directs or has otherwise directed.

Conferment of powers of Revenue-officer.

21. (*1*) The Local Government may, by notification in the Burma Gazette, confer on any person—

(*a*) all or any of the powers of a Financial Commissioner, Commissioner or Collector under this Regulation and the rules thereunder, or

(*b*) all or any of the powers with which an Assistant Collector may be invested under this Regulation,

and may by a like notification withdraw any powers so conferred.

(*2*) A person on whom powers are conferred under sub-section (*1*) shall exercise them within such local limits and in such classes of cases as the Local Government may direct, and shall, if the Local Government so directs, be deemed for all purposes connected with the exercise thereof to be the Financial Commissioner, Commissioner, Collector or Assistant Collector, as the case may be, having exclusive jurisdiction within those limits with respect to those classes of cases.

(*3*) If any of the powers of a Collector under this Regulation and the rules thereunder are conferred on an Assistant Collector, they shall, unless the Local Government by special order otherwise directs, be exercised by him subject to the control of the Collector.

CHAPTER III.

PROVISIONS WITH RESPECT TO CERTAIN SOURCES OF REVENUE.

Thathameda-tax.

Thathameda-tax.

22. (*1*) Thathameda-tax shall be leviable at such average rate per household or family, and shall be assessed by such persons and subject to such rules, as the Local Government directs.

(*2*) The average rate at which thathameda-tax is to be levied may vary from district to district, and from place to place within a district, as the Local Government, having regard to local circumstances, may deem expedient.

(*3*) In the case of any town or village, or, if the Financial Commissioner so directs, of any part of a town or village, all the inhabitants of the town, village or part, as the case may be, shall be jointly and severally liable for the whole of the thathameda-tax leviable therein.

State Land.

Definition of "State land".

23. "State land" in the following sections of this Regulation means land belonging to or at the disposal of the Government, and includes—

(*a*) land hitherto termed royal land;

(*b*) land held on condition of rendering public service or as an appanage to or emolument of a public office;

(*c*) islands and alluvial formations in rivers;

(*d*) waste-land and land included within reserved or village forests; and

(*e*) land which has been under cultivation but has been abandoned and to the ownership of which no claim is preferred within two years from the commencement of this Regulation.

Cognizance of claims to State land.

24. (*1*) Any land which before the commencement of this Regulation has been or thereafter may be declared by the Collector to be State land shall be deemed to be such land until the contrary is proved.

(*2*) A claim to the ownership or possession of any land with respect to which such a declaration has been or may be so made, or to hold such land rent-free or at a favourable rent or rate of rent, or to establish any lien upon, or other interest in, such land or the rents, profits or produce thereof, shall be cognizable by the Collector only, and the order which the Collector may make on the claim shall, subject to the provisions of Chapter II with respect to appeal, review and revision, be final.

Incidents of the tenure of State land.

25. Subject to the provisions of this Regulation and the rules thereunder and to the terms of any order made on any such claim as is mentioned in sub-section (*2*) of the last foregoing section, the following are among the incidents of the tenure of State land, namely :—

(*a*) an occupier of State land can have no heritable or transferable right of use or occupancy therein, nor can any rights adverse to the Government exist in such land unless they have been created or continued by a grant made by or on behalf of the British Government;

(*b*) the rent payable in respect of State land is such as may have been agreed upon between the occupier and an officer of the Government

authorised by rules to be made by the Local Government in this behalf to enter into such an agreement with the occupier on behalf of the Government, or, in the absence of such an agreement, such sum as such an officer, with the approval of the Collector, may determine to be a fair and equitable rent for the use and occupation of the land;

(*c*) an occupier of State land may not, except for default in the payment of rent due from him to the Government, be ejected from such land without such notice as may be prescribed by rules to be made by the Local Government in this behalf or, failing such notice, such compensation as, subject to any such rules, the Collector may, having regard to all the circumstances of the case, deem just;

(*d*) a person occupying State land without the permission of the Collector or of some other officer authorised by rules to be made by the Local Government in this behalf, or occupying such land with such permission and making default in the payment of the rent due from him to the Government in respect thereof, may at any time be ejected from the land by order of the Collector.

Grant and temporary occupation of waste-land, and allotment of such land for grazing-grounds.

26. (*1*) The Financial Commissioner may make rules—

(*a*) for the disposal by way of grant or otherwise of any State land which is waste,

(*b*) for regulating the temporary occupation of such land, and

(*c*) for the allotment from such land of grazing-grounds to the inhabitants of any village in the neighbourhood thereof whom he considers to stand in need of such allotment, and the regulation and control of the use of such grazing-grounds by persons permitted to graze their cattle thereon.

(*2*) Rules under clause (*a*) of sub-section (*1*), with respect to State land which is waste, may provide for the following among other matters, namely:—

(i) the amount or kind of interest to be created in such land, and the conditions, if any, subject to which such interest may be conferred,

(ii) the mode in which grants and other dispositions of the land may be made,

(iii) the total or partial exemption, either absolutely or subject to conditions, of the land from rent for a term of years or for any life or lives or during the maintenance of any institution, and

(iv) the realisation of any money payable in consideration of the grant or other disposition, or of any penalty payable on breach of a condition annexed to such grant or disposition, as if it were an arrear of revenue

due in respect of the land from the person taking under the grant or disposition, his legal representatives or assigns,

but such rules shall not take effect until they have been approved by the Governor General in Council.

(*3*) A rule under sub-section (*1*) may authorise the ejectment, by order of any Revenue-officer, of any person occupying or using land in contravention of any rule under that sub-section.

(*4*) No person shall acquire, by length of possession or otherwise, any interest in land disposed of, occupied or allotted in pursuance of rules under clause (*a*), clause (*b*) or clause (*c*) of sub-section (*1*) beyond such interest as is conferred by the rules.

Lands other than State Land.

Liability to payment of land-revenue of lands other than State land.

27. (*1*) All lands other than State land, to whatever purpose they may be applied and wherever they may be situate, shall, subject to the other provisions of this section and, where thathameda-tax is payable by holders of such lands, to such adjustment of or exemption from that tax as may be authorised by rules to be made by the Local Government in this behalf with the previous sanction of the Governor General in Council, be liable to the payment of land-revenue to the Government.

(*2*) The assessment of such lands to land-revenue shall be made by a Revenue-officer—

(*a*) according to such method of assessment,

(*b*) on consideration of such sources of income,

(*c*) with effect from such date, and

(*d*) for such period,

as may be approved by the Local Government with the previous sanction of the Governor General in Council.

(*3*) When the method of assessment to be adopted and the sources of income to be considered have been determined, the Revenue-officer making the assessment shall, under the direction of the Financial Commissioner, fix the rates of assessment.

(*4*) In the case of land which was subject to the payment of land-revenue immediately before the commencement of this Regulation, the land-revenue payable in respect thereof shall, until the land is assessed under this section, be levied in such manner and at such rates as has and have heretofore been customary.

(*5*) Nothing in sub-section (*1*) with respect to the liability of lands other

than State land to the payment of land-revenue shall be construed to apply to any of the following classes of land, namely :—

(*a*) land belonging at the commencement of this Regulation to the site and curtilage of any monastery, pagoda or other sacred building, or of any school, and continuing to be used for the purpose of such monastery, pagoda, building or school;

(*b*) land appropriated to the dwelling-places of any town or village ; and

(*c*) land exempted from liability to the payment of land-revenue by the express terms of any grant made or continued by or on behalf of the British Government.

Joint liability for land-revenue.

28. When any local area is being assessed to land-revenue under the last foregoing section, the Local Government may, by notification in the Burma Gazette, declare, with respect to the whole or any part of the area, that all the holders of all the lands assessed in each village therein shall be jointly and severally responsible for the land-revenue assessed on all the lands in the village.

Land-records.

Preparation and maintenance of record-of-rights.

29. (*1*) As soon after the commencement of this Regulation as circumstances permit, the Financial Commissioner shall cause a record-of-rights to be prepared for each village, and, when such a record has been prepared, the Collector shall maintain it by causing a corrected edition thereof to be prepared at such intervals as the Financial Commissioner may prescribe.

(*2*) For the purpose of facilitating the preparation of the periodical edition of the record-of-rights, a register, to be called the register of mutations, shall be kept in which any event affecting any of the matters recorded in the record-of-rights or in the last periodical edition thereof shall be recorded as soon as may be after it happens.

(*3*) The Financial Commissioner shall from time to time make rules—

(*a*) as to the documents (including maps) to be comprised in the record-of-rights, and their contents and form;

(*b*) as to the documents (including maps) to be comprised in the periodical edition of the record-of-rights, and their contents and form;

(*c*) as to the contents and form of the register of mutations, and the verification of matters to be recorded therein;

(*d*) as to the obligation of persons interested in land to give information of any event which may affect any of the matters recorded in the record-of-rights or in the last periodical edition thereof

(*e*) as to the consequences which shall ensue on failure to discharge such obligation;

(*f*) as to the fee, if any, to be paid in respect of any entry in a register of mutations and the person by whom such fee is to be payable; and,

(*g*) generally, for the guidance of Revenue-officers and headmen in carrying out the purposes of this section.

(*4*) Any person whose rights or liabilities are required by any rule under sub-section (*3*) to be recorded under this section shall be bound to furnish, on the requisition of any Revenue-officer or headman engaged in compiling the record, all information necessary for the correct compilation thereof.

Determination of disputes arising out of preparation and maintenance of record-of-rights.

30. (*1*) If, in the course of any proceeding for the purpose of carrying out the provisions of the last foregoing section and the rules thereunder, a dispute arises as to any matter of which an entry is to be made in a record or register, a Revenue-officer, of his own motion or on the application of any party interested, may, after such inquiry as he thinks fit, determine the entry to be made as to that matter.

(*2*) If in any such dispute the Revenue-officer is unable to satisfy himself as to which of the parties thereto is in possession of any property to which the dispute relates, he shall ascertain by summary inquiry who is the person best entitled to the property, and shall by order direct that that person be put in possession thereof, and that an entry in accordance with that order be made in the record or register.

(*3*) A direction of a Revenue-officer under sub-section (*2*) shall be subject to any decree or order which may be subsequently passed by any competent authority.

Minerals and Earth-oil.

Mines, minerals, coal and earth-oil.

31. (*1*) Save as otherwise expressly provided by the terms of any grant made or continued by or on behalf of the British Government, the right to all precious stones, mines, minerals, coal and earth-oil shall be deemed to belong to the Government, and the Government shall have all powers necessary for the proper enjoyment of its right thereto.

(*2*) Whenever in the exercise of any such right of the Government the rights of any person are infringed by the occupation or disturbance of the surface of any land, the Government shall pay, or cause to be paid, to that person compensation for the infringement.

(*3*) The compensation shall be determined as nearly as may be in accordance with the provisions of the Upper Burma Land-acquisition Regulation, IX of 1886.[a]

[a] See *supra*, p. 403.

Fisheries.

Fisheries.

32. (*1*) In this and the following sections of this Regulation :—

(*a*) "fishery" means any collection of water, running or still, which is itself of a permanent nature or is connected with some waters of a permanent nature, and in which fish or turtle may be found :

(*b*) "to fish" includes to catch turtle or collect their eggs : and

(*c*) "fixed engine" means any fixed implement for catching or for facilitating the catching of fish, and includes a net secured by anchors or otherwise temporarily fixed to the soil.

(*2*) Every fishery shall be deemed to belong to the Government, and no right to fish in any fishery shall be deemed to have been acquired by the public or by any person, either before or after the commencement of this Regulation, except under this section or the rules thereunder.

(*3*) Subject to such rules and to such conditions and restrictions as the Financial Commissioner with the previous sanction of the Local Government may prescribe in this behalf, the Collector of any district may dispose of the right to fish in any fishery situate within his district, or specially placed under his charge by the Financial Commissioner, either by granting to any person a lease of the exclusive right to fish in such fishery or by granting to any number of persons licenses to use nets, traps or other implements for fishing therein.

(*4*) All such leases and licenses granted before, and in force at, the commencement of this Regulation shall be deemed to have been granted under sub-section (*3*).

(*5*) Except where a lease has been granted of the exclusive right to fish in a fishery, any person may without a license fish in the fishery by angling therein with a rod and line only.

(*6*) The Local Government may declare, with respect to any fishery, that it shall cease to be a fishery for the purposes of this section, and may at any time cancel any such declaration.

(*7*) The Financial Commissioner may make rules for all or any of the following purposes, namely :—

(*a*) for the survey and demarcation of the limits of fisheries ;

(*b*) for determining in which of the modes mentioned in sub-section (*3*) the right to fish in any fishery is to be disposed of ;

(*c*) for regulating the conditions on which, and the procedure by which, fisheries may be opened to the public or leases may be granted of the exclusive right to fish in fisheries ;

(*d*) for fixing the rates at which, and the conditions on which, licenses to use nets, traps or other implements for fishing in fisheries may be granted;

(*e*) for settling the conditions on which permission to erect, place, maintain or use obstructions and fixed engines in fisheries or waters connected therewith may be granted;

(*f*) for making and maintaining free gaps in weirs; and

(*g*) generally, for carrying out the purposes of this section.

(*8*) If any person fishes in any fishery without having a right to fish therein, he shall be punished, for a first offence, with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both, and, for a subsequent offence, with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Salt.

Manufacture of salt.

33. (*1*) In this section the word "saltpetre" and the expression "manufacture of salt" have the same meanings, respectively, as in the Indian Salt Act, 1882, and in this and the following sections of this Regulation the word "salt" includes saltpetre. XII of 1882.

(*2*) The Financial Commissioner may make rules—

(*a*) for granting licenses for the manufacture of salt; and

(*b*) for compounding with the holder of such a license for the payment by him of an annual sum assessed upon the plant employed by him, in lieu of the duty which would be payable by him on the salt manufactured with the aid of such plant.

(*3*) If any person, without such a license for the time being in force,—

(*a*) engages in the manufacture of salt,

(*b*) owns works for the manufacture of salt, or

(*c*) stores salt exceeding such quantity as the Financial Commissioner, by notification in the Burma Gazette, prescribes in this behalf,

he shall be punished with fine which may extend to two hundred rupees, and with a further fine which may extend to twenty rupees for every day after a first conviction under this sub-section during which he continues such manufacture or storage; and

(*4*) All salt in respect of which a conviction under the last foregoing sub-section has taken place, and all materials and implements used for the purpose of the manufacture of such salt, shall be liable to confiscation by order of the convicting Magistrate.

Irrigation-works.

Water-rate.

34. (*1*) A water-rate shall be payable in respect of all lands irrigated from channels, tanks and other irrigation-works controlled and wholly or partially maintained by the State.

(*2*) The Financial Commissioner may make rules for determining the amount of the water-rate to be paid in any district, tract or place, and, in the absence of such rules, water-rate shall continue to be levied in such manner as has heretofore been customary.

(*3*) The Local Government, whenever it appears to be necessary in the public interests, may, upon such terms, if any, as to compensation as it deems just, assume the control and undertake in whole or in part the maintenance of any irrigation-work, and shall thereupon be entitled to levy a water-rate on all land irrigated from the work.

Tolls for navigation in irrigation-channels.

35. (*1*) Tolls shall be payable in respect of all boats and other vessels navigating irrigation-channels which are controlled and wholly or partially maintained by the State.

(*2*) The Financial Commissioner may make rules for determining the rates at which such tolls are to be payable in any district, tract or place and for regulating the navigation of such channels.

(*3*) In the absence of rules determining under sub-section (*2*) the rates at which tolls are to be payable, tolls shall continue to be levied in such manner as has heretofore been customary.

Record respecting irrigation-works.

36. (*1*) With respect to every irrigation-work in each district, whether the work has hitherto been maintained by the Government or not, the Collector shall ascertain and record, in such form and in such detail as the Financial Commissioner may direct,—

(*a*) the nature of the work and of all embankments, channels, weirs and other works subsidiary thereto;

(*b*) the lands irrigable from the work;

(*c*) the water-rate, if any, chargeable on the lands irrigable from the work;

(*d*) the customs relating to the raising of funds for the maintenance and repair of the work and the liabilities of villages or persons jointly or severally to contribute to those funds;

(*e*) the obligations resting on villages or persons jointly or severally to labour or provide labourers or render any service in connection with the maintenance or repair of the work; and

(*f*) the privileges or exemptions enjoyed by the villages or persons on whom the liabilities and obligations referred to in clauses (*d*) and (*e*) rest.

(*2*) The Financial Commissioner may make rules for the enforcement of all or any of the customs, liabilities and obligations so recorded.

(*3*) The Collector may at any time, by a proceeding in writing under his hand, correct the record made under this section.

CHAPTER IV.

Collection of Revenue.

Definitions of "revenue" and "moveable property".

37. In the following sections of this Regulation :—

(*1*) "revenue" includes—

(*a*) thathameda-tax;

(*b*) rent and land-revenue payable in respect of State and other lands;

(*c*) revenue payable on account of precious stones, mines, minerals, coal, earth-oil, fisheries, salt and ferries;

(*d*) water-rate in respect of irrigation from channels, tanks or other irrigation-works controlled and wholly or partially maintained by the State, and tolls in respect of navigation in irrigation-channels so controlled and maintained;

(*e*) excise in respect of spirit, fermented liquor, intoxicating drugs and opium; and

(*f*) every other sum payable to the Government in accordance with law, contract or local usage: and

(*2*) "moveable property" includes standing timber, growing crops and grass, and fixed engines in fisheries or waters connected therewith.

Time and mode of payment of revenue.

38. (*1*) The Financial Commissioner may make rules determining the number and amount of the instalments by which, the person to whom, and the time, place and manner at and in which, any revenue is to be paid.

(*2*) Until rules are made under sub-section (*1*), revenue shall be paid by the instalments, to the persons, at the times and places and in the manner by which, to whom and at and in which it was payable immediately before the commencement of this Regulation.

(*3*) Any revenue not paid as required by rules under sub-section (*1*) or by sub-section (*2*) is an arrear, and the person from whom it is primarily due, as well as the surety, if any, for the payment thereof by that person, is a defaulter.

Security for payment of revenue.

39. The revenue for the time being payable in respect of any land shall be the first charge upon the rents, profits and produce of the land, and, except with the written consent of the Collector, such rents, profits or produce shall not be liable to be taken in execution of a decree or order of any Court until the revenue chargeable thereon, and any arrears of revenue due in respect of the land, have been paid.

Certificate as to arrear, and effect thereof.

40. Subject to the other provisions of this Chapter, a statement of account certified by a Collector or Assistant Collector shall be conclusive proof of the existence of an arrear, of its amount and of the person who is the defaulter.

Process for recovery of arrear.

41. (*1*) An arrear may be recovered by any one or more of the following processes, namely :—

(*a*) by service on the defaulter of a notice requiring him to pay the arrear at a time and place, and to a person, specified in the notice;

(*b*) by attachment and sale of any moveable property belonging to the defaulter except, if he is an agriculturist, his implements of husbandry and seed-grain and the cattle actually employed by him in agriculture and, if he is an artisan, his tools;

(*c*) by the arrest of the defaulter and his imprisonment in the civil jail for a period not exceeding one month;

(*d*) by attachment and sale of any immoveable property belonging to the defaulter.

(*2*) The processes described in sub-section (*1*) may be used either separately or simultaneously.

Effect of sale on incumbrances.

42. (*1*) When any immoveable property is sold under this Chapter for the recovery of an arrear due in respect thereof, the following consequences shall ensue unless a Revenue-officer empowered in this behalf has otherwise directed, namely :—

(*a*) all leases, liens and other incumbrances on the property shall be extinguished, and

(*b*) all grants or contracts previously made by any person other than the purchaser in respect of the property shall become void as against the purchaser.

(*2*) When any immoveable property is brought to sale under this Chapter for the recovery of any other sum than an arrear due in respect thereof, the interests of the defaulter alone therein, as those interests existed immediately before the attachment of the property, shall be sold.

Remedy to person deny-

43. (*1*) When proceedings are taken under this Chapter for the recovery of an arrear, the person against whom they are taken may, if he denies that

ing that arrear is due.

the arrear or any part thereof is due, pay the same under protest made at the time of payment and signed by him or his agent, and institute a suit in any Civil Court having jurisdiction, as regards the value of the suit, at the head-quarters of the district in which the arrear is alleged to have accrued, for the recovery of the amount which he denies to be due.

(*2*) In a suit instituted under sub-section (*1*) the plaintiff may, notwithstanding anything in section 40, give evidence with respect to his liability for the payment of the alleged arrear.

Rules for the purposes of this Chapter.

44. (*1*) The Financial Commissioner may make rules consistent with this Regulation—

(*a*) for determining the officers or classes of officers by whom any of the processes described in section 41 may be enforced;

(*b*) for regulating the procedure to be followed in enforcing any of those processes;

(*c*) prescribing fees for the service or execution of any of those processes;

(*d*) for determining the commission, if any, to be allowed to persons appointed in accordance with any rule under section 38, sub-section (*1*) to receive payment of any revenue and, where the commission is to be paid to more persons than one, the manner in which it is to be divided among them; and,

(*e*) generally, for the guidance of all persons in matters connected with the enforcement of this Chapter.

(*2*) Any fee leviable in pursuance of any rule under clause (*c*) of sub-section (*1*) shall be recoverable as part of the arrear in respect of which the process was issued.

Disposal of proceeds of sales.

45. (*1*) When a sale of any property under this Chapter for the recovery of an arrear has become absolute, the proceeds thereof shall be applied, in the first place, to the payment of the arrear and, in the second place, to the payment of any other arrear, or of any sum recoverable as an arrear under this Chapter, which may be due to the Government from the defaulter.

(*2*) Any balance of the proceeds of the sale which may remain after satisfaction of the claims of the Government under sub-section (*1*) shall, subject to the directions of any Court with respect to the application thereof, be paid to the defaulter.

Prohibition of Revenue-officers bidding at sales for recovery of revenue.

46. Except on behalf of the Government, no Revenue-officer, or person employed in a revenue-office, shall purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property which any Revenue-officer in the district in which he is employed has ordered to be sold for the recovery of an arrear of revenue.

Recovery under this Regulation of other demands than revenue

47. Where, under any enactment for the time being in force, any sum is recoverable as an arrear of revenue, or as an arrear of land-revenue, it shall be recoverable as an arrear under this Chapter

Validation of past proceedings

48. All revenue collected before the commencement of this Regulation shall be deemed to have been collected in accordance with law.

CHAPTER V

Supplemental Provisions.

Rules as to process serving establishments

49. The Local Government may, with the previous sanction of the Governor General in Council, make rules with respect to the establishments to be maintained for the service and execution of processes issued by Revenue-officers and Civil and Criminal Courts, and may declare rules so made to be in supersession of any rules made under the Court-fees Act, 1870, or other enactment for the time being in force.

VII of 1870

General power of Financial Commissioner to make rules

50. The Financial Commissioner may, in addition to the other rules which may be made by him under this Regulation, make rules consistent with this Regulation and any other enactment for the time being in force—

(*a*) prescribing the fees to be charged for the service and execution of processes issued by Revenue-officers otherwise than for the recovery of arrears of revenue, and the mode in which those fees are to be collected,

(*b*) regulating the travelling and other expenses of witnesses,

(*c*) regulating other costs in proceedings before Revenue officers and providing for the realisation of costs in such proceedings as if they were arrears of revenue,

(*d*) regulating the procedure in cases where persons are entitled to inspect records of revenue-offices or records or papers in the custody of headmen or other village-officers or to obtain copies of the same, and prescribing the fees payable for searches and copies;

(*e*) prescribing forms for such books, entries, statistics and accounts as the Financial Commissioner thinks necessary to be kept, made or compiled in revenue-offices, or submitted to any authority,

(*f*) declaring what shall be the language of any of those offices and determining in what cases persons practising in those offices shall be permitted to address the presiding officers thereof in English, and,

(*g*) generally, for carrying out the purposes of this Regulation.

Provisions with respect to rules under this Regulation.

51. (*1*) The power to make any rules under this Regulation is subject to the control of the Governor General in Council, and to the condition of the rules being made after previous publication.*

(*2*) Rules made by the Financial Commissioner under this Regulation shall not take effect until they have been sanctioned by the Local Government.

(*3*) Any power conferred by this Regulation on the Financial Commissioner to make rules, and the power of the Local Government to sanction them, may be exercised at any time after the passing of this Regulation, but a rule so made shall not take effect until this Regulation has come into force.

(*4*) The authority making any rule under this Regulation may attach to the breach thereof, in addition to any other consequences which may ensue from such breach, such punishment, not exceeding imprisonment for one month or fine extending to two hundred rupees, or both, as may seem to such authority, having regard to the object of the rule, to be appropriate.

Powers exercisable by Financial Commissioner from time to time.

52. All powers conferred by this Regulation on the Financial Commissioner may be exercised from time to time as occasion requires.

Exclusion of jurisdiction of Civil Courts in matters within the jurisdiction of Revenue-officers.

53. Except as otherwise provided by this Regulation—

(*1*) a Civil Court shall not have jurisdiction in any matter which the Local Government or a Revenue-officer is empowered by or under this Regulation to dispose of, or take cognizance of the manner in which the Local Government or any Revenue-officer exercises any powers vested in it or him by or under this Regulation; and in particular—

(*2*) a Civil Court shall not exercise jurisdiction over any of the following matters, which shall be cognizable exclusively by Revenue-officers, namely:—

(i) any question as to the limits of any State land;

(ii) any claim to the ownership or possession of any State land, or to hold such land rent-free or at a favourable rent or rate of rent, or to establish any lien upon, or other interest in, such land or the rents, profits or produce thereof;

(iii) any claim to compel the performance of any duties imposed by or under this Regulation or any other enactment for the time being in force on any Revenue-officer as such;

(iv) any claim to the office of headman or other village-officer, or in respect of any injury caused by exclusion from such office, or to

* See Act I of 1887, ss. 6 and 10.

compel the performance of the duties or a division of the emoluments thereof;

(v) the preparation of a record-of-rights or periodical edition of such a record;

(vi) the correction of any entry in a record-of-rights or periodical edition of such a record or in a register of mutations;

(vii) the amount of rent to be paid in respect of any State land, or the amount of land-revenue to be assessed on any other land under this Regulation;

(viii) the amount of, or the liability of any person to pay, any other revenue recoverable under this Regulation;

(ix) any claim connected with, or arising out of, any right in an irrigation-work, or any charge in respect of land irrigated from such a work, or any matter which the Collector is bound to ascertain and record under section 36;

(x) any claim to a right to fish, or connected with, or arising out of, the demarcation or disposal of any fishery;

(xi) any claim to hold free of revenue any land, fishery or natural products of land or water;

(xii) any claim connected with, or arising out of, the collection of revenue, or the enforcement of any process for the recovery of an arrear of revenue or any sum recoverable as such an arrear;

(xiii) any claim to set aside, on any ground other than fraud, a sale for the recovery of an arrear of revenue or any sum recoverable as such an arrear;

(xiv) the amount of, or the liability of any person to pay, any fees, costs or other charges imposed under this Regulation.

APPENDIX.

PART I.

ENACTMENTS EXTENDED TO UPPER BURMA UNDER SECTION 5 OF THE SCHEDULED DISTRICTS ACT.

The Scheduled Districts Act, 1874, was brought into force in Upper Burma (except the Shan States) by the following Notification:—

The 26th October, 1886.

No. 119.—Under the provisions of section 3 of the Scheduled Districts Act, 1874, with the previous sanction of the Governor General in Council, the Chief Commissioner of Burma declares that, with effect from the date of this Notification, the said Act is in force in the whole of Upper Burma, except the Shan States.

[Published, Burma Gazette, 6th November, 1886, Pt. I, p. 337, and Gazette of India, 6th idem, Pt. I., p. 664.]

A.—ENACTMENTS EXTENDED TO THE WHOLE OF UPPER BURMA (EXCEPT THE SHAN STATES).

Year.	No.	Subject or Short Title.	Notifications
		(*1*).—*Bengal Regulations.*	
1812	XI[b]	Removal of Foreign Emigrants.	*No. 261, dated the 3rd August, 1888.*—In exercise of the powers conferred by section 5 of the Scheduled Districts Act, XIV of 1874, the Chief Commissioner of Burma, with the previous sanction of the Governor General in Council, extends the following enactments to the whole of Upper Burma, except the Shan States, and to the town of Mandalay respectively:— [a] *Enactments extended to Upper Burma generally.* Bengal Regulation XI of 1812 (Removal of Foreign Emigrants). Act XVIII of 1886 (to amend Act XXXVI of 1858). The General Clauses Act, I of 1887.

[a] The provisions of s. 1 of 33 Vict., c 3, have been declared applicable to Upper Burma (except the Shan States) from the 1st March, 1886—see Gazette of India, 8th May, 1886, Pt I, p. 311.

[b] See *supra*, p. 1.

A.—ENACTMENTS EXTENDED TO THE WHOLE OF UPPER BURMA (EXCEPT THE SHAN STATES)—*continued.*

Year.	No.	Subject or Short Title.	Notifications.
			(*1*).—*Bengal Regulations*—continued.
1812	XI—*continued.*		Act III of 1887 (to amend the Indian Evidence Act, 1872). Act VI of 1887 (to amend the Indian Companies Act, 1882). The Suits Valuation Act, VII of 1887. Act I of 1888 (to amend the Indian Stamp Act, 1879). The Inventions and Designs Act, V of 1888. *Enactments extended to the Town of Mandalay only.* The Debtors Act, VI of 1888, except sections 9 and 10. The Civil Procedure Code Amendment Act, VII of 1888, except section 65. [Published, Burma Gazette, 4th August, 1888, Pt. I, p. 362, and Gazette of India, 11th idem, Pt. I, p. 371.]
			(*2*).—*Acts of the Governor General in Council.*
1863	XVI (*as amended by the Indian Tariff Act, XI of 1882, sec. 6.*)	Excise on spirits used exclusively in manufactures.	*No. 65, dated the 19th July, 1888.*—In exercise of the powers conferred by section 5 of the Scheduled Districts Act, XIV of 1874, the Chief Commissioner of Burma, with the previous sanction of the Governor General in Council, has extended the following enactments to the whole of Upper Burma, except the Shan States, with effect from the 21st day of July, 1888, namely:— (*a*) Act XVI of 1863, as amended by the Indian Tariff Act, XI of 1882, section 6, and (*b*) the Excise Act, XXII of 1881, as amended by Act VI of 1885, Act IX of 1885, section 2, and Act II of 1887, sections 5 and 6. [Published, Burma Gazette, 21st July, 1888, Pt. I, p. 291, and Gazette of India, 21st idem, Pt. I, p. 342.]
1864	XV	To amend Act VIII of 1851, for enabling Government to levy tolls on public roads and bridges.	*No. 366, dated the 27th October, 1888.*—In exercise of the powers conferred by section 5 of the Scheduled Districts Act, XIV of 1874, the Chief Commissioner of Burma, with the previous sanction of the Governor General in Council, extends to the whole of Upper Burma, except the Shan States, the following enactments, namely:— Act XV of 1864 (*an Act to amend Act VIII of 1851, for enabling Government to levy tolls on public roads and bridges*).

A.—ENACTMENTS EXTENDED TO THE WHOLE OF UPPER BURMA (EXCEPT THE SHAN STATES)—*continued.*

Year.	No.	Subject or Short Title.	Notifications.
		(*2*).—*Acts of the Governor General in Council*—continued.	
1864	XV—*continued.*		Act VIII[a] of 1888 (*an Act to remove doubts as to the legality of the levy of certain* [a]*tolls*). [Published, Burma Gazette, 27th October, 1888, Pt. I, p. 497, and Gazette of India, 27th idem, Pt. I, p. 478.]
1878	I	Opium . . .	*No. 75, dated the 15th September, 1888.*—In exercise of the powers conferred by section 5 of the Scheduled Districts Act, XIV of 1874, the Chief Commissioner of Burma is pleased, with the previous sanction of the Governor General in Council, to extend the Opium Act, I of 1878, to the whole of Upper Burma, except the Shan States. [Published, Burma Gazette, 15th September, 1888, Pt. I, p. 411, and Gazette of India, 15th idem, Pt. I, p. 421.]
1879	XI	Local Authorities Loan	*No. 151, dated the 15th November, 1888.*—In exercise of the powers conferred by section 5 of the Scheduled Districts Act, XIV of 1874, the Chief Commissioner of Burma, with the previous sanction of the Governor General in Council, extends the Local Authorities Loan Act, XI of 1879, and Act XV of 1885 (*to amend the Local Authorities Loan Act, 1879*) to the whole of Upper Burma except the Shan States. [Published, Burma Gazette, 17th November, 1888, Pt. I, p. 544, and Gazette of India, 26th January, 1889, Pt. I, p. 51.]
„	XIV[a]	Hackney Carriages .	*No. 111 (100), dated the 14th July, 1888.*—In exercise of the powers conferred by section 5 of the Scheduled Districts Act, 1874, the Chief Commissioner of Burma is pleased, with the previous sanction of the Governor General in Council, to extend the Hackney Carriage Act, XIV of 1879, to the whole of Upper Burma, except the Shan States. [Published, Burma Gazette, 4th August, 1888, Pt. I, p. 362, and Gazette of India, 30th June, 1888, Pt. I, p. 293.]
„	XX[b]	Glanders and Farcy	*No. 21—4-2C.B., dated the 11th February, 1887.*—In exercise of the powers conferred by section 5 of the Scheduled Districts Act, XIV of 1874, the Chief Commissioner of Burma is pleased, with the previous sanction of the Governor General in Council, to extend the Glanders and Farcy Act, XX

[a] See *supra*, p. 34.

[b] See *supra*, p. 38.

A.—ENACTMENT EXTENDED TO THE WHOLE OF UPPER BURMA (EXCEPT THE SHAN STATES)—*continued.*

Year.	No.	Subject or Short Title.	Notifications.
		(2).—*Acts of the Governor General in Council*—continued.	
1879	XX—*continued*		of 1879, to the whole of Upper Burma except the Shan States. [Published, Burma Gazette, 26th February, 1887, Pt II, p. 55, and Gazette of India, 12th idem, Pt. I, p. 78.]
1880	V[a]	Burma Boundaries	*No. 23, dated the 20th June, 1887 (No. 505F., dated the 3rd June, 1887).*—In exercise of the powers conferred by section 5 of the Scheduled Districts Act, 1874, the Chief Commissioner, with the previous sanction of the Governor General in Council, is pleased to extend the Burma Boundaries Act, 1880, to the whole of Upper Burma, except the Town of Mandalay, to which the Act has already been extended, and the Shan States. [Published, Burma Gazette, 25th June, 1887, Pt. I, p. 242, and Gazette of India, 4th idem, Pt. I, p. 256.]
1881	XXI[b] (*as amended by Act VI of 1885, Act IX of 1885, s. 2 and Act II of 1887, ss. 5 and 6*).	Excise	[See Notification opposite Act XVI of 1863, on p 490.]
1882	XII	Salt	*No. 24, dated the 15th June, 1889.*—In exercise of the power conferred by section 5 of the Scheduled Districts Act, 1874, the Chief Commissioner of Burma, with the previous sanction of the Governor General in Council, is pleased to extend to the whole of Upper Burma, exclusive of the Shan States, so much of the Indian Salt Act, 1882, as, on the date of this notification, is in force in Lower Burma. [Published, Burma Gazette, 15th June, 1889, Pt. I, p. 261, and Gazette of India, 15th idem, Pt. I, p. 334.
,,	XIV[c] (ss. 223 to 228)	Civil Procedure	*No. 69, dated the 12th February, 1889.*—In exercise of the power conferred by section 5 of the Scheduled Districts Act, XIV of 1874, the Chief Commissioner of Burma, with the previous sanction of the Governor General in Council, extends sections 223 to 228 of the Code of Civil Pro-

[a] See *supra*, p. 42.
[b] See *supra*, p. 52.
[c] The whole Code of Civil Procedure was declared in force in the Town of Mandalay by Act XX of 1886—see *supra*, p. 370.

A.—ENACTMENTS EXTENDED TO THE WHOLE OF UPPER BURMA (EXCEPT THE SHAN STATES)—*continued.*

Year.	No.	Subject or Short Title.	Notifications.
		(2)—*Acts of the Governor General in Council*—continued.	
1882	XIV (ss. 223 to 228) —*continued.*		cedure to the whole of Upper Burma except the Town of Mandalay (in which they are already in force), and the Shan States. [Published, Burma Gazette, 23rd February, 1889, Pt. I, p. 76, and Gazette of India, 2nd March, 1889, Pt. I, p. 132.]
1884	IV	Explosives . .	*No. 412, dated the 29th November, 1888.*—In exercise of the powers conferred by section 5 of the Scheduled Districts Act, XIV of 1874, the Chief Commissioner of Burma, with the previous sanction of the Governor General in Council, extends the Explosives Act, IV of 1884, to the whole of Upper Burma, excluding the Shan States, [Published, Burma Gazette, 1st December, 1888, Pt. I, p 563, and Gazette of India, 1st idem, Pt. I, p. 539.]
,,	VI	Inland Steam-vessels	*No. 93, dated the 3rd November, 1888.*—In exercise of the power conferred by section 5 of the Scheduled Districts Act, XIV of 1874, the Chief Commissioner of Burma is pleased, with the previous sanction of the Governor General in Council, to extend the Inland Steam-vessels Act, VI of 1884, to the whole of Upper Burma except the Shan States, with effect from the 1st December, 1888. [Published, Burma Gazette, 10th November, 1888, Pt. I, p. 511, and Gazette of India, 17th idem, 1888, Pt. I, p. 524.]
1885	XV	Act to amend Local Authorities Loan Act, 1879.	See Notification opposite Act XI of 1879, on p. 491.
1886	VI	Births, Deaths and Marriages Registration.	*No 289, dated the 15th November, 1888.*—In exercise of the power conferred by section 5 of the Scheduled Districts Act, XIV of 1874, the Chief Commissioner of Burma, with the previous sanction of the Governor General in Council, extends the Births, Deaths and Marriages Registration Act, VI of 1886, to Upper Burma. [Published, Burma Gazette, 17th November, 1888, Pt. I, p. 544, and Gazette of India, 24th idem, Pt. I, p. 528.]

ENACTMENTS EXTENDED TO THE WHOLE OF UPPER BURMA (EXCEPT THE SHAN STATES)—*concluded.*

Year.	No.	Subject or Short Title.	Notifications.
		Acts of the Governor General in Council—concluded.	
1886	XVIII	Lunatic Asylums .	See Notification opposite Ben. Reg. XI of 1812, on p. 489.
1887	I	General Clauses .	Ditto.
„	III	Indian Evidence .	Ditto.
	VI	Indian Companies .	Ditto.
„	VII	Suits Valuation .	Ditto.
1888	I	Indian Stamps .	Ditto.
„	V	Inventions and Designs.	Ditto.
„	VIII	Act to remove doubts as to the legality of the levy of certain tolls.	See Notification opposite Act XV of 1864, on p. 490.
„	X (so much of s. 4 as repeals Act VIII of 1880.)	Amending Code of Civil Procedure, &c.	*No. 203, dated the 13th May, 1889.*—In exercise of the power conferred by section 5 of the Scheduled Districts Act, XIV of 1874, the Chief Commissioner of Burma, with the previous sanction of the Governor General in Council, extends (*a*) sections 1, 3 and 4 of Act X of 1888 (*to amend the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882*) to the Town of Mandalay, and (*b*) so much of section 4 of the same Act as repeals Act VIII of 1880 (*to correct a clerical error in the Indian Limitation Act, 1877*) to the rest of Upper Burma, except the Shan States. [Published, Burma Gazette, 18th May, 1889, Pt I, p. 227, and Gazette of India, 25th idem, Pt. I, p. 392.]

B.—Enactments extended to the Town of Mandalay only.

Year.	No.	Subject or Short Title.	Notifications.
		Acts of the Governor General in Council.	
1880	V[a]	Burma Boundaries .	*No. 958—62—25S., dated the 10th December, 1886.*—In exercise of the powers conferred by section 5 of the Scheduled Districts Act, 1874, with the previous sanction of the Governor General in Council, the Chief Commissioner of Burma extends to the Town of Mandalay, with effect from the date of this Notification, the Burma Boundaries Act, 1880. [Published, Burma Gazette, 25th December, 1886, Pt. II, p. 355, and Gazette of India, 11th idem, Pt. I, p. 724.]
1887	IX	Provincial Small Cause Courts.	*No. 193, dated the 12th July, 1887.*—In exercise of the powers conferred by section 5 of the Scheduled Districts Act, 1874, the Chief Commissioner of Burma, with the previous sanction of the Governor General in Council, hereby extends the Small Cause Courts Act, 1887, to the Town of Mandalay as limited and defined by section 6, clause (*d*), of the Upper Burma Laws Act, 1886. [Published, Burma Gazette, 23rd July, 1887, Pt. I, p. 392, and Gazette of India, 18th February, 1888, Pt. I, p. 88.]
1888	VI *except ss. 9 and 10.*	Debtors . . .	See Notification opposite Bn. Reg. XI of 1812, on p. 489.
„	VII *except s. 65.*	Civil Procedure Code Amendment.	Ditto.
„	X (ss. 1, 3 and 4.)	Amending Code of Civil Procedure, &c.	See notification opposite Act X of 1888, on p. 494.

[a] Act V of 1880 has since been extended to the whole of Upper Burma (except Mandalay and the Shan States)—*ce supra*, p. 492.

PART II.

NOTIFICATIONS CONCERNING PORTIONS OF UPPER BURMA TRANSFERRED TO LOWER BURMA.

A.—Notifications under section 2 (*2*) of the Upper Burma Laws Act, 1886, transferring portions of Upper Burma to Lower Burma.

The 24th February, 1887.

No. 110.—In exercise of the powers conferred by section 2, sub-section (*2*), of the Upper Burma Laws Act, XX of 1886, the Chief Commissioner of Burma, with the previous sanction of the Governor General in Council, transfers the portion of Upper Burma named below to Lower Burma, with effect on and from the first day of March, 1887 :—

The township of Sinbaungwe;

The circles of Mindat, Mindon, Taingda and Thayetgyon.

[Published, Burma Gazette, 26th February, 1887, Pt. I, p. 98, and Gazette of India, 5th March, 1887, Pt. I, p. 123.]

The 13th August, 1887.

No. 341.—In exercise of the powers conferred by section 2, sub-section (*2*), of the Upper Burma Laws Act, 1886, the Chief Commissioner of Burma is pleased, with the previous sanction of the Governor General in Council, to transfer the portion of Upper Burma described below to Lower Burma, with effect on and from the date of this notification :—

The Myothit and Minhla townships; and

The Nale and Kade circles of the Sagu township.

[Published, Burma Gazette, 13th August, 1887, Pt. I, p. 331, and Gazette of India, 20th idem, Pt. I, p. 429.]

B.—NOTIFICATIONS UNDER THE SCHEDULED DISTRICTS ACT, 1874, EXTENDING ENACTMENTS TO THE PORTIONS OF UPPER BURMA TRANSFERRED TO LOWER BURMA.

The 24th February, 1887.

No. 111.—Under section 5 of the Scheduled Districts Act, XIV of 1874, the Chief Commissioner of Burma, with the previous sanction of the Governor General in Council, extends, with effect on and from the first day of March, 1887, to the territory transferred to Lower Burma by Notification No. 110 of this date, all enactments now in force in the Thayetmyo District, except the following, namely,—

(*a*) The Burma Land and Revenue Act, 1876;

(*b*) The Excise Act, 1881.

[Published, Burma Gazette, 26th February, 1887, Pt. I, p. 98, and Gazette of India, 5th March, 1887, Pt. I, p. 123.]

The 13th August, 1887.

No. 342.—In exercise of the powers conferred by section 5 of the Scheduled Districts Act, 1874, the Chief Commissioner of Burma is pleased, with the previous sanction of the Governor General in Council, to extend, with effect from the date of this Notification, to the territory transferred to Lower Burma, by Notification No. 341 of this date, all enactments now in force in the Thayetmyo district, except the following, namely :—

(*a*) The Burma Land and Revenue Act, 1876;

(*b*) The Excise Act, 1881.

No. 343.—In exercise of the powers conferred by section 5 of the Scheduled Districts Act, 1874, the Chief Commissioner of Burma is pleased, with the previous sanction of the Governor General in Council, to extend the Upper Burma Revenue Regulation, 1887, with effect from the date of this Notification, to the territories transferred to Lower Burma by Notifications Nos. 110 and 341, dated, respectively, the 24th February and the 13th August, 1887.

[Published, Burma Gazette, 13th August, 1887, Pt. I, p. 331, and Gazette of India, 20th idem, Pt. I, p. 429.]

The 12th November, 1887.

No. 11.—In exercise of the powers conferred by section 5 of the Scheduled Districts Act, 1874, the Chief Commissioner of Burma is pleased, with the previous sanction of the Governor General in Council, to extend the Upper

B.—NOTIFICATIONS UNDER THE SCHEDULED DISTRICTS ACT, 1874, EXTENDING ENACTMENTS TO THE PORTIONS OF UPPER BURMA TRANSFERRED TO LOWER BURMA—*concluded.*

Burma Village Regulation, 1887, with effect from the date of this Notification, to the territory transferred to Lower Burma by Notifications Nos. 109[a] and 341, dated, respectively, the 24th February and 13th August, 1887.

[Published, Burma Gazette, 12th November, 1887, Pt. I, p. 443, and Gazette of India, 12th idem, Pt. I, p. 577.]

The 27th October, 1888.

No. 85.—In exercise of the powers conferred by section 5 of the Scheduled Districts Act, XIV of 1874, and in modification of General Department Notifications Nos. 110,[b] dated the 24th February, 1887, and 342, dated the 13th August, 1887, the Chief Commissioner of Burma, with the previous sanction of the Governor General in Council, is pleased to extend to the territory transferred from Upper Burma to Lower Burma by General Department Notifications Nos. 109, dated the 24th February, 1887, and 341, dated the 13th August, 1887, the Excise Act, XXII of 1881, as amended by Act VI of 1885, Act IX of 1885, section 2, and Act II of 1887, sections 5 and 6.

[Published, Burma Gazette, 27th October, 1888, Pt. I, p. 496, and Gazette of India, 3rd November, 1888, Pt. I, p. 506.]

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[a] *Sic.*, read 110.
[b] *Sic.*, read 111.

PART III.

NOTIFICATIONS CONCERNING THE SHAN STATES.

A.—Notification declaring what constitutes the Shan States.

The 21st March, 1887.

No. 75.—In exercise of the powers conferred by section 8, sub-section (*3*), of the Upper Burma Laws Act, 1886, the Chief Commissioner, with the previous sanction of the Governor General in Council, declares that, for the purposes of sections 6, 7 and 8 of that Act, the territories mentioned below constitute the Shan States :—

(*1*) *On the West of the Irrawaddy River.*

The State of Wuntho.
Ditto Thaungthut.
The State of Kalè.
Ditto Zingalein Kanti.

The territory of Kantigyi.

(*2*) *On the East of the Irrawaddy River.*

(*a*) *West of the Salween River.*

The State of Momeik.	The State of Naungmun.
Ditto Mahlaing.	Ditto Letmaing.
Ditto Maingôn.	Ditto Tabet.
Ditto Taungbaing.	Ditto Saga.
Ditto Thenni.	Ditto Thikyit.
Ditto Thibaw.	Ditto Thatôn.
Ditto Maingnaung.	Ditto Mobyè.
Ditto Maingtôn.	Ditto Lwèlôn.
Ditto Thônzè.	Ditto Maingkônpalaik.
Ditto Maingkaing.	Ditto Maingseik.
Ditto Yatsauk.	Ditto Maukmè.
Ditto Legya.	Ditto Monè.
Ditto Maingpyin.	Ditto Maingpan.
Ditto Maingpun.	Ditto Kyaingtaung.
Ditto Nyaungywe.	Ditto Kyaingkan.
Ditto Hopôn.	Ditto Bawnin.
Ditto Nankôk.	Ditto Ywangan.
Ditto Hèlôn.	Ditto Kyi-thi. }
Ditto Banyin.	Ditto Bansan. }

The tract known as Myelat.

(*b*) *East of the Salween River.*

All the territories east of the Salween river which, on the 27th November 1885, owed allegiance directly or indirectly to the King of Burma.

[Published, Burma Gazette, 2nd April, 1887, Pt. I, p. 145.]

B.—Notifications extending Laws to, and giving Orders concerning, the Shan States.

The 31st August, 1887.

No. 823F.—In exercise of the powers conferred by section 8, sub-section (*1*), of the Upper Burma Laws Act, 1886, the Chief Commissioner of Burma is pleased, with the previous sanction of the Governor General in Council, to extend the Upper Burma Forest Regulation, 1887, to the following Shan States, namely:—

(*1*) *On the West of the Irrawaddy.*

(1) Wuntho.
(2) Thaungthut.
(3) Kalé.
(4) Zingalein Kanti.
(5) Kantigyi.

(*2*) *On the East of the Irrawaddy.*

(1) Momeik.
(2) Mahlaing.
(3) Mainglôn.
(4) Tsungbaing.
(5) Theinni, west of the Salween watershed.
(6) Thibaw.
(7) Maingtôn.
(8) Thônze.
(9) Yatzauk.
(10) Mainggpyin.
(11) Lwèlon.
(12) Maingkônpaleik.
(13) Ywangan.
(14) Myèlat, west of the Salween watershed.

[Published, Burma Gazette, 17th September, 1887, Pt. II, p. 266.]

The 3rd December, 1888.

No. 163.—In exercise of the powers conferred by section 8, sub-section (*1*), of the Upper Burma Laws Act, 1886, the Chief Commissioner is pleased, with the previous sanction of the Governor General in Council, to extend the Upper Burma Forest Regulation, 1887, to all the territories which may from time to time be declared by Notification under section 8, sub-section (*3*), of the said Act to constitute the Shan States.

[Published, Burma Gazette, 8th December, 1888, Pt. I, p. 574.]

The 4th March, 1889.

No. 1.—Under section 8, sub-section (*1*), of the Upper Burma Laws Act, 1886, and sections 4 and 5 of the Shan States Act, 1888, the Chief Commissioner, with the previous sanction of the Governor General in Council, is pleased to make the following orders with respect to the tract known as the Myelat, and comprising the States of Ywangan, Kyauk Kuleywa, Pwehla,

B.—NOTIFICATIONS EXTENDING LAWS TO, AND GIVING ORDERS CONCERNING, THE SHAN STATES—*continued.*

Pindaya, Bawzaing, Kyôn, Nankôn, Thamaing-kan (including the old States of Magwe, Lwè-an, Taunghla and Myinmati), Pinhmi, Lwè-è, Lwèmaw Nankè, Nantôk, Lwèlôn and Sagwè :—

1. So much of Bengal Regulation III of 1818, and of Acts XVIII of 1850, XXXIV of 1850, III of 1858, XLV of 1860, V of 1861, VI of 1864, V of 1869, XXVII of 1870, V of 1871, XIX of 1872, V of 1875, VIII of 1882, IX of 1882, X of 1886 and XV of 1887 as is in force in any part of Upper Burma at the date of this notification, and, subject to the modifications hereinafter appearing, so much of the Code of Criminal Procedure and of the Upper Burma Criminal Justice Regulation as is in force and has reference to the judicial functions of Magistrates of the first class and of District Magistrates, either as such or as Judges of Courts of Session, are hereby extended to the Myelat.

2. The Myelat shall be deemed to be a District and a Sessions Division.

3. The Superintendent, for the time being, of the Shan States shall be District Magistrate and, as such, Judge of the Court of Session, and the Assistant Superintendent for the time being of the Shan States shall be a Magistrate of the first class with power to try such offences and pass such sentence, as a District Magistrate may be empowered to try, and, when so empowered may pass under sections 30 and 34, respectively, of the Code of Criminal Procedure.

4. Subject to the provisions of section XV of the Schedule to the Upper Burma Criminal Justice Regulation, an appeal shall lie from a judgment or order of the Assistant Superintendent to the Superintendent, and from a judgment or order of the Superintendent to the Chief Commissioner.

5. Except in reference to proceedings against European British subjects, or persons jointly charged with European British subjects, the Chief Commissioner shall be the highest Court of criminal appeal or revision for the Myelat, and may discharge with respect of that tract any of the functions of a High Court under the Code of Criminal Procedure, and no sentence of death passed by the Superintendent shall be carried into effect until it has been confirmed by the Chief Commissioner.

6. The expression "Assistant Superintendent of the Shan States" includes any Assistant Commissioner, Extra Assistant Commissioner, or other officer whom the Chief Commissioner may appoint to discharge all or any of the functions of the Assistant Superintendent in the Myelat under this notification.

[Published, Burma Gazette, 9th March, 1889, Pt. I, p. 98.]

B.—NOTIFICATIONS EXTENDING LAWS TO, AND GIVING ORDERS CONCERNING, THE SHAN STATES—*continued.*

The 27th May, 1889.

No. 159.—In exercise of the powers conferred by section 8, sub-section (*1*), of the Upper Burma Laws Act, 1886, and section 5 of the Shan States Act, 1888, the Chief Commissioner, with the previous sanction of the Governor General in Council, extends to all the Shan States for the time being notified under section 8, sub-section (*3*), of the Upper Burma Laws Act, 1886, the Burma Military Police Act, 1887, except sub-sections (*2*) and (*3*) of section 1 and section 2.

[Published, Burma Gazette, 1st June, 1889, Pt. I, p. 266.]

The 30th May, 1889.

No. 4.—Under section 8, sub-section (*1*), of the Upper Burma Laws Act, XX of 1886, and sections 4 and 5 of the Shan States Act, XV of 1888, the Chief Commissioner of Burma, with the previous sanction of the Governor General in Council, is pleased to make the following orders with respect to laws to be in force in the Shan States, and with respect to the administration of criminal justice in certain of those States in cases in which an European or American or a military police-officer or other servant of the Government or a British subject who is not a native of any Shan State is concerned either as complainant or as accused :—

1. In these orders the expression "Northern Shan States" includes the States of North and South Theinni, Taungbaing, Thibaw, Mainglôn, Maingtôn and Thônzê, and the expression "Southern Shan States" includes all other Shan States east of the Irrawaddy river except the Myelat and the State of Momeik, and the expression "Assistant Superintendent" includes any Assistant Commissioner, Extra Assistant Commissioner or other officer whom the Chief Commissioner may appoint to discharge for any local area all or any of the functions of an Assistant Superintendent under these orders.

2. Bengal Regulation III of 1818 and Acts XVIII of 1850, XXXIV of 1850, III of 1858, V of 1861, V of 1869, V of 1875 and XV of 1887 [except section 1, sub-sections (*2*) and (*3*), and section 2] are hereby extended to all territories for the time being notified under sub-section (*3*) of section 8 of the Upper Burma Laws Act, 1886, as Shan States for the purposes of that section and sections 6 and 7 of that Act.

3. For the purposes of the administration of criminal justice in the Northern Shan States and the Southern Shan States, in cases in which an European or American or a military police-officer or other servant of the Government or a British subject who is not a native of any Shan State is con-

B.—NOTIFICATIONS EXTENDING LAWS TO, AND GIVING ORDERS CONCERNING, THE SHAN STATES—*continued.*

cerned either as complainant or as accused, the following provisions shall take effect, namely:—

(*a*) there are hereby extended to the Northern Shan States and the Southern Shan States so much of Acts XLV of 1860, VI of 1864, XXVII of 1870, V of 1871, XIX of 1872, VIII of 1882, IX of 1882, and X of 1886, as is in force in any part of Upper Burma at the date of these orders, and, subject to the modifications hereinafter appearing, so much of the Code of Criminal Procedure, 1882, and of the Upper Burma Criminal Justice Regulation, VII of 1886, as is so in force and has reference to the judicial functions of Magistrates of the first class and of District Magistrates either as such or as Judges of Courts of Session;

(*b*) the Northern Shan States and the Southern Shan States shall each be deemed to be a district and a sessions division;

(*c*) the Superintendent for the time being of the Northern Shan States and the Superintendent for the time being of the Shan States shall be District Magistrates and, as such, Judges of Courts of Session for the Northern Shan States and the Southern Shan States, respectively, and every Assistant Superintendent shall be a Magistrate of the first class, with power to try such offences and pass such sentences as a District Magistrate may be empowered to try and, when so empowered, may pass, under sections 30 and 34, respectively, of the Code of Criminal Procedure, 1882;

(*d*) subject to the provisions of section XV of the Schedule to the Upper Burma Criminal Justice Regulation, VII of 1886, an appeal shall lie from a judgment or order of an Assistant Superintendent to the Superintendent to whom he is subordinate, and from a judgment or order of either of the Superintendents to the Chief Commissioner;

(*e*) except in reference to proceedings against European British subjects or persons jointly charged with European British subjects, the Chief Commissioner shall be the highest Court of Criminal Appeal or Revision for the Northern Shan States and the Southern Shan States, and may discharge in respect of those States any of the functions of a High Court under the Code of Criminal Procedure, and no sentence of death passed by either Superintendent shall be carried into effect until it has been confirmed by the Chief Commissioner.

[Published, Burma Gazette, 1st June, 1889, Pt. I, p. 262.]

B.—NOTIFICATIONS EXTENDING LAWS TO, AND GIVING ORDERS CONCERNING, THE SHAN STATES—*concluded.*

The 30th May, 1889.

No. 5.—Under section 4, sub-section (*1*), clause (*a*), of the Shan States Act, XV of 1888, the Chief Commissioner of Burma is pleased to appoint the Superintendent for the time being of the Northern Shan States and the Superintendent for the time being of the Shan States to exercise a general control over the administration of criminal justice within the Northern Shan States and the Southern Shan States, respectively, and under section 4, sub-section (*1*), clause (*b*), of the same Act, with the previous sanction of the Governor General in Council, to make the following orders, namely :—

1. In exercise of such control as aforesaid the Superintendent for the time being of the Northern Shan States or of the Shan States may call for the record of any case which is pending before, or has been disposed of by, the Chief of a Northern or Southern Shan State, as the case may be, and may—

(*a*) stay the proceedings of the Chief;

(*b*) modify or cancel any order passed by the Chief which is not in accordance with justice, equity and good conscience;

(*c*) try and decide the case himself.

2. In exercising the powers conferred by this notification, the Superintendents shall observe the procedure prescribed for Magistrates by the Code of Criminal Procedure, 1882, as modified by the Upper Burma Criminal Justice Regulation, VII of 1886.

3. In this notification the expression "Northern Shan States" includes the States of North and South Theinni, Taungbaing, Thibaw, Mainglôn, Maingtôn and Thônzê, and the expression "Southern Shan States" includes all other Shan States east of the Irrawaddy river except the Myelat and the State of Momeik.

[Published, Burma Gazette, 1st June, 1889, Pt. I, p. 263.]

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